



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2642/2026

(VINIT SHIVKUMAR AGRAWAL **VERSUS** RIDDHI KAMALKISHOR AGRAWAL & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Bhuvanesh N. Raut, counsel for the petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 10, 2026

Heard the learned counsel for the petitioner.

2. By this petition, the petitioner has challenged the order dated 27.01.2026 passed by the trial Court rejecting the application under Order XVIII Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the Code').

3. The petitioner is the original defendant no.12 in Regular Civil Suit no.138 of 2012 filed by the respondents seeking partition and allied reliefs. The petitioner appeared in the suit and filed his written statement and the suit proceeded at the stage of evidence. On 25.09.2025, the defendant no.9 who appeared as witness was cross-examined by the petitioner and thereafter the suit proceeded further. On 06.11.2025, the petitioner filed an application under Order XVIII Rule 17 of the Code for recalling the witness, i.e. the defendant no.9, for further cross-examination. The application was opposed by the defendant no.9 and by order dated 27.01.2026, it came to be rejected. The petitioner has challenged this order by way of instant petition.

4. Primary contention of the petitioner is that he desires to cross-examine the defendant no.9 on certain discrepancies with respect to the boundaries of the suit properties and therefore he should have been afforded an opportunity to conduct the cross-examination.

5. It has to be noted that the defendant no.9 was already cross-examined by the petitioner and after the evidence of the defendant no.9 was over, the application for recalling him came to be filed. The trial Court has passed the impugned order after considering the provisions of Order XVIII Rule 17 of the Code and the position of law as laid down by the Hon'ble Supreme Court in ***K.K. Velusamy Versus N. Palaanisamy*** [(2011) 11 SCC 275]. Pertinent to note, the trial Court has observed that the petitioner has earlier exhaustively cross-examined the defendant no.9 and the application for recalling him is an attempt to fill up the lacunae. It has been also observed that the discrepancies about the boundaries as sought to be put forth are the questions which are to be decided by the trial Court at the time of appreciation of evidence. After considering these aspects, the trial Court has inferred that there is no necessity to recall the respondent no.9 for cross-examination.

6. A perusal of the impugned order reveals that the trial Court has given due consideration to the relevant factual and legal aspects and has exercised the discretion in rejecting the application. The reasons recorded by the trial Court are sound and does not show any perversity warranting indulgence under Article 227 of the Constitution of India.

7. For the aforesaid reasons, the writ petition is dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE