

MHSO130004592021



R.C.S. No.371/2021

Khalil Pathan

Vs.

Kudaratulla Pathan & ors.

ORDER BELOW EXHIBIT- 44

01. This is an application filed by defendant No.1 to 4 for setting aside No Cross order passed against them.

02. Read the application. Perused say of the plaintiff.

03. The defendants submitted that on 08/12/2025, they had to conduct cross-examination of the plaintiff, however, their advocate was engaged in another court and therefore No Cross order has been passed against them. The defendants have grievous complaints against the plaintiff and that complaints required to be brought on record by the cross-examination. To adjudicate the dispute on merit, cross-examination of the witness is required to be conducted otherwise prejudice will cause to the defendants. Hence, prayed for setting aside the No Cross order.

04. The plaintiff filed his say beneath the application and thereby opposed the application. He contended that the application is not true. The plaintiff has filed his affidavit of examination in chief on 06/04/2023 at Exh.42 but the defendants avoided to conduct cross-examination of the plaintiff. On 12/09/2024, defendant No.1 himself has taken cross-examination and thereafter, in spite of sufficient opportunity, the defendants did not conduct cross-examination, hence, on 13/01/2026, No cross order has been passed against them. Therefore, prayed for rejection of the application and alternatively prayed for heavy costs upon the defendants.

05. Heard both sides. Perused the record before me. It appears that the plaintiff has filed the present suit for the relief of partition and separate possession and declaration. The plaintiff has filed his evidence affidavit on 06/04/2023 at Exh.42. Defendant No.1 has conducted partial cross-examination of the plaintiff on 12/09/2024. Thereafter, in spite of sufficient opportunity, the defendants failed to conduct cross-examination of the plaintiff, therefore, No Cross order has been passed against them on 13/01/2026. The defendants have filed the present application on 01/04/2026. The defendants have caused delay to conduct cross-examination even after giving sufficient opportunity to them. However, the rights and interest of the defendants are involved in the suit property. Hence, it is just and necessary to allow the application by imposing appropriate costs upon them and no prejudice will be caused to the plaintiff by the same, in fact, it will be helpful to decide the matter on merit. Hence, in the light of above discussion, I proceed to pass following order;

ORDER

- 1) The application (Exh.44) is allowed.
- 2) Order of 'No cross' passed on 13/01/2026 is hereby set aside subject to payment costs of Rs.2,500/- (Rs. Two Thousand Five Hundred only) to be paid by defendant No.1 to 4 to the plaintiff on or before next date, failure to which, this order will be vacated.
- 3) The plaintiff is directed to remain present on next date for facing cross-examination.

(Dictated and pronounced in open Court.)

Barshi.
Date : 14/07/2026.

Sd/-
(Smt. V.V. Chavan)
Jt. Civil Judge J.D., Barshi.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment / Order

(a)	Name of the Stenographer	:	Shri. S.R. Barangule, Stenographer Grade III
(b)	Court	:	Smt. V.V. Chavan, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order declared on	:	14/07/2026
(d)	Judgment /Order signed by P.O. on	:	14/07/2026
(e)	Judgment /Order uploaded on	:	14/07/2026