

MHSO130004592021



R.C.S. No.371/2021

Khalil Pathan

Vs.

Kudaratulla Pathan & ors.

ORDER BELOW EXHIBIT- 46

01. This is an application filed by defendant No.6B for setting aside No Cross order passed against him.

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

03. The defendant submitted that the matter was pending for cross-examination of the plaintiff, however, meanwhile, the matter was sent for mediation and due to non receiving of the mediation report, the defendant could not conduct cross-examination of the plaintiff. Defendant No.6B was not aware about receiving of mediation report and also not aware about date of matter as on 13/01/2026. He was engaged in his agricultural work and due to this, he could not attend the court, therefore, no cross order has been passed against him on 13/01/2026. Defendant No.6B has not deliberately caused delay. The matter is in respect of immovable property and defendant has grievous complaints against the plaintiff and that complaints required to be brought on record by the cross-examination. 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 and neither defendant No.6 nor his advocate were present on that day. 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 16/04/2026. Meanwhile, the matter was referred to mediation on 12/09/2024, however, due to non settlement of the dispute between the parties, mediation report (Exh.48) received in the Court with not settled remark on 13/01/2025. Even though, defendant No.6B did not conduct the cross-examination of the plaintiff and he caused delay to conduct cross-examination even after giving sufficient opportunity to him. However, the rights and interest of defendant No.6B are involved in the suit property. Hence, it is just and necessary to allow the application by imposing appropriate

costs upon him 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.46) is allowed.
- 2) Order of 'No cross' passed on 13/01/2026 is hereby set aside subject to payment costs of Rs.1,000/- (Rs. One Thousand only) to be paid by defendant No.6B 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