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**Regular Civil Suit No.154/2018
(Balkrushna Vs. Kondiba)**

**Order Below Exh.65
(Passed on 27.01.2026)**

This is an application filed by the defendant No.1, 2 and 6 to 8 for setting aside “No Cross Order”, which has been passed on 17.06.2025. They submitted that the appeal filed against the order passed below Exh.5 is still pending. Meanwhile, defendant No.1 and 2 were suffering from illness. As well as defendant No.6 and 8 also could not remain present due to their domestic difficulties. Defendant No.7 is residing at Mumbai and he also could not remain present in the matter. For all these reasons, they could not conduct the cross examination of the plaintiff witness. Hence, the no cross order be set aside by granting permission to cross examine the plaintiff witness.

2. The application has been resisted by the plaintiff by filing say at Exh.66. They submitted that there is no plausible reason for allowing the present application. All the defendants except defendant No.7 are residing at Mauje Bavdhan, Taluka Wai and therefore, their contention that they could not remain present in the matter by contacting their Ld. Advocate cannot be accepted. The affidavit of plaintiff witness has been filed on 24.09.2024 at Exh.46. Thereafter, reasonable opportunity was offered to the defendants for cross examining him. However, due to the reluctance of the defendants, they failed to conduct the cross examination. Resultantly, the no cross order came to be passed. They further submitted that the application has not been supported with affidavit. Under such circumstances, it be rejected by imposing heavy cost of Rs.3,000/-.

3. Perused the application and say alongwith the entire record. It is a matter of record after framing of issues at Exh.44 on 17.05.2024. The plaintiff namely Sunil Balkrushna Pisal filed his evidence on affidavit at Exh.51. It also appears that he was further chief examined on 21.12.2025. However, no cross order came to be passed against the defendants, as they failed to cross examine said witness.

4. The present suit has been filed for the relief of possession of the suit property. Therefore, it is clear that the real question in controversy between the parties has to be decided on merit. Admittedly, the defendants have caused some delay in the matter due to their failure of cross examining the plaintiff witness at Exh.51. However, it should not be at the cost of justice. As discussed, the matter has to be decided on the merit by giving opportunity to both the sides. Hence, the application deserves to be allowed. So far as the delay is concerned, the same can be compensated by imposing certain amount of cost. Resultantly, the application is allowed by passing following order.

ORDER

1. The application at Exh.65 is hereby allowed subject to cost of Rs.500/- payable to the plaintiffs.
2. On payment of cost as above, the defendants are permitted to cross examine the plaintiff witness as prayed.

Dictated and pronounced in the open Court.

Place : Wai.
Date : 27.01.2026.

(R.M. Bhende)
2nd Jt. Civil Judge Junior Division,
Wai, Dist. Satara.

CERTIFICATE

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order dictated on : 27.01.2026.

Order checked and signed on : 27.01.2026.

Uploaded by : Akshay D. Kumbhar
Stenographer (Grade-III)

Uploaded on : 28.01.2026.