

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7219 OF 2014

Kisanrao S/o Manikrao Khopde,
Age: 65 years, Occ: Business,
R/o: Kailas Motor Cycle Agencies,
Kailas Lodge, Near Statute of Zhanshi
Rani, Opposite Dhule Mahapalika,
Taluka & District : Dhule.

... Petitioner
(Orig. Plaintiff)

VERSUS

Sau. Meshadevi Manorharlal Mandan,
Age: 60 years, Occupation : Business,
R/o: Block No. k-1/6, Kumar Nagar,
Sakri Road, Dhule,
Taluka & District : Dhule.

... Respondent
(Orig. Defendant)

...
Advocate for Petitioner : Mr. Sanket S. Kulkarni
Advocate for Respondent : Mr. M. S. Kulkarni

...
CORAM : V.K. JADHAV, J.

...
Date of Reserving the Judgment : February 11, 2015
Date of Pronouncing the Judgment : February 13, 2015.

...
JUDGMENT :-

1. Leave to correct the title clause of the petition.
2. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the admission stage.
3. The petitioner is the original defendant. The Respondent original plaintiff has filed an application at Exh.132 in RCS No.83/2009 for production of certain documents. The petitioner has opposed the said application

by filing say. The learned Civil Judge Junior Division, Dhule by impugned order below Exh.132 allowed the production of the documents as per list. Hence, this Writ Petition.

4. The learned counsel for the petitioner submits that in terms of Order 7 Rule 14 of the Code of Civil Procedure, where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the documents and copy thereof, to be filed with the plaint. The learned counsel thus submits that, in the event, if the plaintiff fails to mention the documents in the list annexed to the plaint and to place on record a copy of such document, the plaintiff is not entitled to produce any document thereafter. The learned counsel further submits that, the provisions of Order 13 Rule 1 are in consonance with the provisions of Order 7 Rule 14 of Civil Procedure Code. Learned counsel further submits that, the plaintiff has produced the documents at belated stage. Even if it is considered that the documents were not in possession of the plaintiff, the plaintiff should have delivered the interrogatories in writing well in time for obtaining necessary information regarding the material fact constituting the case

of the opposite party. The plaintiff should have delivered interrogatories for discovery of the documents. The learned counsel thus submits that, the order passed by the Trial Court below Exh.132 is not legal, proper and correct.

5. Learned counsel for respondent sole/original plaintiff submits that the provisions of Order 7 Rule 14 are procedural and directory in nature. Learned counsel further submits that the suit is instituted for eviction on many grounds including the bonafide requirement of the suit premises of the plaintiff. Since the petitioner/original defendant has given the publication in the daily newspaper about selling of his immovable property, the plaintiff came to know about it and accordingly produced on record copy of the said daily newspaper alongwith the documents of the ownership of the defendant with regard to the said property. Learned counsel for the respondent thus submits that, the order passed by the learned judge of the Trial Court is proper, correct and legal and calls for no interference. Learned counsel for the respondent placed reliance on a judgment in the case of **Mohanraj Rupchand Jain and Ors. Versus Kewalchand Hastimal Jain and Ors. reported in 2007 (3) Bom.C.R.737.**

6. In view of the provisions of Sub Rule 3 of Rule 14 subsequent production of document cannot be allowed except with the leave of the Court. The documents which have not been presented alongwith the plaint and have also not been entered in the list that has been added or annexed to the plaint as per the provisions of Order 7 Rule 14 (1) could still be tendered in evidence with the leave of the Court which the Court may grant under Rule 14 (3) of Order 7 of the Code of Civil Procedure. The learned Judge of the Trial Court with the reasoned order granted application at Exh.132 and thereby allowed the plaintiff to produce the documents though at the belated stage. Issue No.3 in the suit relates to the bonafide requirement of the suit premises by the plaintiff. The plaintiff/original defendant has also not challenged the genuineness of the said document.

7. The case referred above decided by this Court relied upon by learned counsel for respondent squarely applies to the facts and circumstances of the present case. In the case in hand, the documents sought to be produced on record are essential to assist the parties and also to the court to arrive at a just and proper decision with regard to the disputes.

8. In view of this, the order impugned calls for no interference. Petition is devoid of any merit. Writ Petition is dismissed with no order as to costs. Rule is discharged.

sd/-

(V.K. JADHAV)
JUDGE

...

aaa/-