

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

WRIT PETITION NO. 2556 OF 2014

Jagannath Kachru Rithe and others .. Petitioners

Versus

Shantilal S/o Baban Rithe and others .. Respondents

Mrs. Pooja V. Langhe, Advocate for Petitioners.

Smt. Smita S. Kulkarni, Advocate for Respondent Nos. 1 and 2.

Shri K. M. Nagarkar and Smt. S. S. Kulkarni, Advocates for the Respondent No. 3.

Shri P. S. Patil, A.G.P. for the Respondent No. 4.

CORAM : S. V. GANGAPURWALA, J.

DATE : 22ND MARCH, 2016.

PER COURT :

. The application for production of documents is rejected.
Aggrieved thereby present petition.

2. Mrs. Langhe, the learned counsel for petitioners submits that, only on the ground that after the evidence is led the documents are produced, the Court has rejected the application. According to the learned counsel the certified copy of the development plan is produced on record. The same is a public document. The other documents which are sought to be produced are the representation made to the talathi and the complaint

made to the police. The said documents also bear seal of the respective offices having received said applications. The learned counsel submits that, the said documents are relevant and material for effective adjudication of the dispute. According to the learned counsel, inadvertently said documents could not be produced. Even in the deposition the reference to the said documents is made.

3. The learned counsel for respondent Nos. 1 and 2 opposes the petition and strenuously contends that the petitioners are required to produce the documents at the relevant stage. After the evidence is over and the matter is for arguments at that stage application is filed. No reason is stated for non production of documents earlier. The respondents will not have opportunity to controvert the said documents. When no reason is mentioned for non production of documents earlier, the documents cannot be allowed to be produced. The learned counsel submits that, the petition deserves to be dismissed with heavy costs.

4. I have considered the submissions canvassed by the learned counsel for respective parties.

5. It is a matter of record that, after the evidence is led by the parties, the petitioners have filed application for production of documents. The documents that is the representation made to

the talathi and the complaint made to the police itself are private documents. The said documents were very much in the custody of the petitioners. The petitioners have not given any plausible reason for non production of said documents earlier. As far as application with regard to production of these two documents is concerned, the same is rightly rejected.

6. So far as another document that is copy of development plan is concerned, the Trial Court has not considered, whether copy of development plan produced is certified copy or not. It has also not applied its mind as to whether same would be a public document. A document which would not be required to be proved U/Sec. 83 of the Evidence Act, if it is a public document, then the said document is directly admissible in the evidence. Of course, the parties will have to be given opportunity to put forth evidence. The defendants will have to be given opportunity in that regard.

7. In the light of the above, I pass following order.

8. The application filed by the petitioner for production of documents to the extent of representation made to the talathi and the complaint made to the police is concerned, the same is rejected.

9. As far as copy of development plan is concerned, the Trial Court shall verify whether the same is certified copy or not and if the same is certified copy, it shall also consider whether said is certified copy of public document and effect of its admissibility and then take decision on the application for production of documents afresh. The writ petition is disposed of with aforesaid observations and directions. No costs.

[S. V. GANGAPURWALA, J.]

bsb/March 16