

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

904 WRIT PETITION NO. 13393 OF 2017

TUKARAM HARIBHAU NALAGE AND ANOTHER
VERSUS
SAKHARAM HARIBHAU NALAGE AND ANOTHER

...
Advocate for Petitioners : Mr. S. K. Shinde.

...

CORAM : **V. K. JADHAV, J.**
DATE : 16th November, 2017.

ORDER:

. I do not find any substance in this writ petition. The learned District Judge has rejected the application Exhibit 15 filed under Order XLI Rule 27 of the Code of Civil Procedure for production of some documents on record in appeal. It is the contention of the Petitioners / Plaintiffs that in spite of due diligence, the Petitioners / Plaintiffs failed to collect those documents during the trial of the suit. It appears from para 5 of the impugned order that the documents sought to be produced before the Appellate Court, were already produced before the Trial Court by the other side. In view of the same, the learned District Judge has rejected the application Exhibit 15.

2 The learned counsel for Petitioners submits that though those documents were produced by the other side before the Trial

Court, the said documents were not exhibited and even the other side has not given the notice of admission with regard to those documents to the Petitioners / Plaintiffs.

3 The Petitioners / Plaintiffs may point out these facts to the Appellate Court while arguing the matter finally and the Petitioners are always at liberty to request the Appellate Court to remand the matter for the said purpose. It is for the lower Appellate Court to take appropriate decision on its own merits, if such request is made. Hence, the following order:

ORDER

The writ petition is hereby dismissed. No costs.

[V. K. JADHAV, J.]

ndm