

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION No. 5718 OF 2018

Smt.Suman Bhimaji Shinde

...Petitioner

Versus

Shri.Vilas Namdeo Jadhav & Ors.

...Respondents

.....

Shri. Nitin Gangal for the Petitioner.

Mr.S.M.Gorwadkar, Senior Counsel a/w. Mr.N.A.Mogre for
Respondent Nos.1 and 2.

Mr.A.R. Metkari, AGP for Respondent No.4

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JUNE 19, 2018**

P.C. :

1. Rule. Rule made returnable forthwith. By consent of the parties, the Writ Petition is disposed of at the stage of admission.
2. This Writ Petition under Article 227 of the Constitution of India, is filed taking exception to the order dated 6th December, 2017 passed by the learned 5th Additional Judge, Small Causes Court, Pune below the application at Exhibit 174 in Civil Suit No. 1513 of 2009.

3. The petitioner, who is the original plaintiff, wants a Day Book or Thumb Book from the Office of the Sub Registrar of Assurances, Class-II, Taluka- Haveli No.2, Pune. Therefore, the plaintiff has filed application under Order 16 Rule 10 (2) of the Code of Civil Procedure for issuing proclamation against the witness. On perusal of the order, it is found that the witness for production of the document from the Office of Sub Registrar of Assurances, Class-II, Taluka- Haveli No.2, Pune remained present in the Court and informed that the Thumb Book is not traceable. The witness has further informed that the Thumb Book and Day Book are two different books. The Day Book is produced before the Court. Under such circumstances, the application for issuing proclamation against the witness for production of the document is not maintainable. The proclamation summons for witness can be issued, if the witness is avoiding to remain present in the Court.

4. Thus, there is no merit in the Writ Petition. Hence, the Writ Petition is dismissed. Rule is discharged.

(MRIDULA BHATKAR, J.)