

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

WRIT PETITION NO.13054 OF 2018

Govinda Laxman Dhumse
since deceased through legal heirs and ors. .. Petitioners

V/s.

The State of Maharashtra and Ors. .. Respondents

Mr.R.N.Gite for the petitioner

Mr.C.D.Mali, A.G.P. for the respondent nos.1 to 5

CORAM: K.K. TATED, J.

DATED : NOVEMBER 26, 2018

P.C. :

1 Heard.

2 By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 20.07.2018 passed by Civil Judge, Senior Division, Nashik below Exhibit-279-A in Special Civil Suit No. 395 of 2008 rejecting Petitioner original plaintiff's Application under Order XIII Rule 3 of the Code of Civil Procedure, 1908.

3 The learned counsel for the Petitioner submits that the court below failed to consider the fact that some of the documents already filed by the Petitioner on record were similar to the

documents filed by the Respondent original defendant no.6. Therefore, there was no question of allowing defendant no.6 to place on record these documents. He further submits that the documents filed by original defendant no.6 along with Exhibit-172 are irrelevant in the present Suit, do not require to be on record. He submits that these facts were not considered by the court at the time of deciding their Application below Exhibit-279-A. He submits that as per Order XIII Rule 3 of the Code of Civil Procedure, 1908 court has power to return the documents which are irrelevant in a suit. Therefore, present Writ Petition is required to be allowed.

4 I have heard both the sides at length.

5 I have gone through the order dated 20.07.2018 passed by Trial Court below Exhibit-279-A.

6 It is to be noted that Trial Court in paragraph 4 of the impugned order specifically recorded that documents filed by defendant no.6 are in support of their own case. Those documents were filed by defendant no.6 before starting the evidence of the plaintiff. Trial Court also recorded that those documents are not going to affect the interest of the plaintiff at all.

7 It is to be noted that in any case, defendant no.6 tendered those documents on 14.08.2012 i.e. before the Petitioner original plaintiff entered the witness box. That fact is considered by the trial court.

8 Considering these facts, I do not find any substance in the present Writ Petition.

9 Hence, Writ Petition stands rejected.

(K.K. TATED, J.)