

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8535 OF 2019

CHITRAKALA @ CHITRABAI BHASKAR PATIL
VERSUS
MADHUKAR DANGAL PATIL

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Advocate for Petitioner : Shri Rane Girish S.
AGP for State : Shri Yadav-Lonikar S.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 16, 2019

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PER COURT :-

1. The petitioner / defendant No.1 in RCS No.24 of 2006 is aggrieved by the order dated 17.4.2019, passed by the trial Court, disposing off the application Exhibit 134, filed by the petitioner seeking a direction to the Sub Divisional Officer, Pachora, to produce the R & P of RTS Appeal No.135 of 2005.

2. I have considered the extensive submissions of the learned Advocate for the petitioner. I have perused the petition paper book with his assistance.

3. The petitioner, who is the defendant in the suit, draws support from the judgment of the Sub Divisional Officer, Pachora delivered in RTS Appeal No.135 of 2005, the date of which cannot be recollected

by the petitioner. An application under Right to Information Act was made before the concerned authority. By communication dated 18.12.2018, the Information Officer from the office of the Sub Divisional Officer has informed the petitioner that the record of the RTS proceeding is not being traced and an effort to trace out the same is in progress. The petitioner was called upon to reach the office of the Sub Divisional Officer and take inspection of the record, as may be available and find out as to which document he desires from the said record, so as to take a certified copy.

4. I find that a vague application under the said Act has been made by the petitioner's son contending that all the papers appearing in the said RTS Appeal, including the rojnama etc., should be supplied to Prashant, who is the son of the petitioner. The petitioner's son once again made an application to the Information Officer, office of the Sub Divisional Officer, on 11.3.2019 stating that he should be given the documents within three days or else he would take action against the Sub Divisional Officer.

5. The petitioner then moved an application Exhibit 134, seeking a direction from the trial Court that the Sub Divisional Officer be directed to produce the entire R & P of the RTS Appeal. The trial Court rejected the said application by the impugned order and

permitted the petitioner to take certified copies from the office of the Sub Divisional Officer and produce it on record.

6. The Honourable Apex Court, in the matter of Laxmi and another Vs. Rayyammal and others [AIR 2009 SC 2352], has concluded in paragraph No.12 that if a document is found to be essential for proving a case, ordinarily the Court should not refuse the production of such a document. However, the Court should not encourage any fishing enquiry and should be sure that procuring of a document would not only assist the said litigant but would also assist the Court in properly deciding the proceeding.

7. I find from Exhibit 134 that the said application is absolutely vague. The law laid down in the case of 20th Century Fox Corporation (India) (P) Ltd. Vs. F.H. Lala [(1974) II LLJ 156 Bom.], that unless a document is found to be in the custody of the party and is relevant for deciding the proceedings, no order for production of the document can be passed, is squarely applicable. Exhibit 134 does not indicate as to which document does the petitioner desire to produce in the Court and rely on the same. Neither any specific document is indicated, nor has the petitioner pleaded any relevance of the said document. In my view, the trial Court has rightly rejected Exhibit 134.

8. The pending suit is of the year 2006, which is about 13 years old. No request for postponement of the trial could be entertained by this Court. The petitioner is at liberty to approach the Sub Divisional Officer, Pachora by making an application that she requires the copy of the order passed by the Sub Divisional Officer while deciding the said RTS Appeal No.135 of 2005. If such an application is made, the Sub Divisional Officer would supply a copy expeditiously, provided the record is available, keeping in view that the suit is progressing before the trial Court at Bhadgaon. If required, the Sub Divisional Officer would allow the petitioner to take inspection of the available record in the presence of the responsible officer deputed for the purpose. It is made clear that this direction is subject to the availability of the record in the office of the Sub Divisional Officer, Pachora.

9. In these peculiar facts, I deem it appropriate to request the learned Assistant Government Pleader Shri Yadav-Lonikar to transmit a copy of this order to the Sub Divisional Officer, Pachora for his perusal and necessary action.

(RAVINDRA V. GHUGE, J.)

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