

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3627 OF 2018

Narayan Sakharam Wagaskar	.. Petitioner
Versus	
Anil Sakharam Wagaskar and Ors.	.. Respondents

Mr. Kalpesh Patil for petitioner.

CORAM : K.K. TATED, J.
DATE : 04 FEBRUARY 2019.

P.C:-

. Heard learned Counsel for the petitioner.

2. By this petition under Article 227 of the Constitution of India petitioner/original plaintiff is challenging the order dated 29.11.2017 passed by the Joint Civil Judge, Senior Division, Pune below Exhibit-107 in Special Civil Suit No.630 of 2012 rejecting their application for direction to the respondent/original defendant to produce certain documents.

3. The Court below specifically recorded in paragraph Nos. 3 and 4 that except documents mentioned at Sr. Nos. 1 to 3 in paragraph 2 of the application all other documents are already on record. Defendant Nos. 1 and 2 filed their say below Exhibit-110 and stated on solemnized affirmation that they are not in possession of the documents at Sr. Nos. 1 to 3 mentioned in paragraph 2 of the said application. Considering this fact, trial Court rejected petitioner's application below Exhibit-107.

4. I heard learned Counsel for petitioner at length. Admittedly, the trial Court observed in its order dated 29.11.2017 that defendant Nos. 1 and 2 are not in custody of those documents and not only that, even defendant has specifically stated on solemnized affirmation those facts. Hence, there is no question of compelling them to produce the documents, which are not in their possession. Considering these facts, I do not find any substance in the present writ petition.

5. Writ petition stands rejected.

(K.K.TATED, J.)