

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7939 OF 2021

Vikas Bhaskar Vartak and ors .. Petitioners
Versus
Anubai Yadav Patil and ors .. Respondents

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Mr.S.V. Wakankar i/b Ashutosh R. Gole for the petitioners.

CORAM: BHARATI DANGRE, J.
DATED : 25th NOVEMBER, 2021

P.C:-

1 Petitioners are aggrieved by the impugned order passed below Exhibit-76 in Special Civil Suit No.47 of 2021, by which the plaintiff filed an application under Order 11 Rule 14 to produce certain original documents as set out in the application, relating to the alleged transactions related to the suit properties.

2 Heard learned counsel for the petitioners and perused the application vide Exhibit-110 filed by the plaintiff. The application specifically plead that the documents set out therein are in the possession of defendant nos.1 to 4 and are necessary for adjudication of the Suit. Though a notice was given to the

defendant nos.1 to 4 by the plaintiff, they have failed to produce the said documents, which are very much necessary to be brought on record.

3 Learned counsel for the petitioner submit that it is not the stage at which the documents will be permitted to be brought on record and in any case, relying upon his reply to the application, it is argued that some of the documents are public documents and it is always open for the plaintiff to obtain its certified copy. In any case, it is admitted that the defendant nos.1 to 3 will produce the documents mentioned at item nos.3, 7, 8 9 and 11 while they lead their evidence.

4 The provisions of Order 11 which relate to discovery and inspection, in Rule 14 provide for production of documents. Rule 15 is a provision for inspection of documents referred to in pleadings or affidavits and according to the aforesaid rule, if the documents are not produced in pursuance of the notice issued, the party not complying with such notice shall not be at liberty to put any such documents in evidence unless he satisfy the Court that the documents are relied only for establishing his own title, he being defendant to the Suit or that he shows a cause, which the Court deems sufficient, for not complying with the notice and in such a case, the Court may allow them to be taken on evidence subject to such terms, as to costs, as the Court deem fit. In the backdrop of

the aforesaid provision, when the application is perused, it can be seen that some documents which are sought to be produced are public documents but referring to the said documents, the learned Judge has recorded that the documents executed between the private parties because it is registered may not be a public document. The said reasoning may not be correct. However, what the learned Judge has directed is only production of the documents and the parties are always at liberty to contest or raise a doubt about its contents and its acceptance/exhibiting the same in evidence. The defendants have in any way, responded by saying that they would be producing at Sr. Nos. 3, 7, 8, 9 and 11 at the time of their evidence. I do not find any fault in the order passed by the learned Judge which leave me with no option but to dismiss the Writ Petition.

SMT. BHARATI DANGRE, J