

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1387 OF 2013**

SANDHYA MAHADEV MAKANE

..PETITIONER

VERSUS

BHAUSAHEB ANNA AMBHORE

..RESPONDENTS

...

Mr. Hemant Surve, Advocate for the Petitioner.

Mr. P. K. Nikam, Advocate for Respondent Nos.1-A to 1-E.

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CORAM : S. V. GANGAPURWALA, J.

DATED : 14th JANUARY, 2022.

PER COURT:-

1. The present petition is filed against the order rejecting the application for issuance of witness summons.

2. Mr. Surve, learned counsel for the petitioner/original plaintiff submits that, defendants have taken defence about the existence of two public roads running through land Gut No.63 of which the Suit land is a part. The petitioner/original plaintiff had sought witness summons to call Tahasildar alongwith record. The said application is rejected. The application was thereafter filed for review of that order. The said application is also rejected. According to the learned counsel, the Trial Court had rejected the application only on the ground that, certified copies of the documents sought for can be produced. However, the same cannot be a substitute for ocular evidence. According to the learned counsel, the witness summons are necessary, so that the Revenue

Officer stepped into the witness box alongwith record.

3. I have heard Mr. Nikam, learned counsel for the respondents.

4. The defence raised by the defendants has to be proved by defendants. The certified copies are admissible in evidence. The certified copies of the public documents do not require further evidence to be recorded for exhibiting and admitting them in the evidence.

5. It is duty of defendants to prove their case. If the defendants call for such witnesses, the plaintiff always has right to cross-examine such witnesses. It is not for the plaintiff to take upon himself the burden of proving the case of defendants.

6. I do not find any error committed by the Trial Court in observing that, the certified copies are available and upon filing the certified copies the purpose can be served.

7. In light of that, no interference is called for.

8. Writ Petition is disposed of. No costs.

(S. V. GANGAPURWALA)
JUDGE

Devendra/January-2022