

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO.5963 OF 2022

SOPAN FUKA KALE SINCE DECEASED THROUGH LRS.
INDUBAI SOPAN KALE SINCE DECEASED LRS. AND OTHERS
VERSUS
SHALIGRAM RAMDAS KALE AND OTHERS

...
Advocate for Petitioners : Mr. Patil Vijay Bhalerao
...

CORAM : MANGESH S. PATIL, J.
DATE : 17 JUNE 2022

PC :

The petitioners are aggrieved by similar orders passed by the trial court permitting the respondents - plaintiffs to produce documents during the course of trial.

2. The learned advocate for the petitioners vehemently submits that the suit was instituted way back in the year 1996 and is still awaiting final adjudication. After the respondents closed their evidence, by way of two separate applications, several documents were sought to be produced which have been allowed by the impugned orders. Some of these documents are not the certified copies of public documents. The application was vague. It did not disclose either the reason why those were not produced at the earlier point of time and without any reference as to how they are relevant. The application is also silent as to the date when these documents were available to them. Ignoring all these lapses, the clock has been set back inasmuch as the documents are allowed to be produced. There is every possibility of the respondents seeking to re-open their evidence causing serious

prejudice to the petitioners. All the parameters which are required to be considered for permitting production of documents at a belated stage have been overlooked. The impugned orders are exactly similar and do not disclose the relevance of the documents for adjudication of the dispute.

3. I have carefully considered the submissions. Perused both the orders and the papers. True it is that the applications for production of documents are indeed vague. They do not apparently disclose any reason as to why the documents were not produced at any earlier point of time nor does it disclose as to how those are relevant for the adjudication of the suit. It is quite true that the respondents have sought to produce these documents belatedly, after they closed their evidence and the petitioner has now entered into the witness box and is about to lead evidence.

4. Again, even the learned Judge while passing the impugned orders, though has referred to and discussed the provisions as also the case-law, it has not recorded any emphatic findings touching the important aspects regarding the relevance of the documents and respondents' inability to produce it at some earlier point of time.

5. In spite of the above state-of-affairs, it is abundantly clear that, most of the documents sought to be produced are certified copies of the public documents, some are certified copies of the judgments and decrees in the previous litigation and the documents which were exhibited in some earlier litigation. Needless to state that mere

production of the documents does not automatically result in the proof regarding their genuineness or the contents thereof. One need not delve much to elaborate on the point. It is a matter of record that the petitioners are still to complete their evidence. The documents were sought to be produced even before their first witness is cross-examined.

6. Though in opposing these applications for production, they had submitted their objection by filing say, it has not been disclosed as to how such belated production is likely to cause any prejudice to them. Producing the documents at a belated stage *per se* would not be sufficient to conclude that the party against which the documents are sought to be produced would necessarily be put to some prejudice. They would have a fair opportunity to refute these documents during the course of further hearing.

7. Considering the afore-mentioned aspects, in my view, entertaining this petition during the course of part-heard trial would further prolong the decision. The trial court has appropriately granted permission to produce the documents by imposing sufficient costs and that should serve the purpose.

8. The writ petition is dismissed.

[MANGESH S. PATIL]
JUDGE

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