

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

963 WRIT PETITION NO.10669 OF 2022

**SUNIL SUBHASH ARAYA AND ANOTHER
VERSUS
LAXMINARAYAN PURUSHOTTAM PIPRIYE AND OTHERS**

...
Advocate for Petitioners : Mr. Y.B.Pathan, h/f Mr.Siddiqui Sohel E.
...

**CORAM : SANDEEP V. MARNE, J.
DATE : 13.10.2022.**

PER COURT :

1. The petitioner has filed the present petition challenging the order dated 05.08.2022 passed by the Civil Judge Junior Division, Jalna in RCS No. 49 of 2015. By that order the petitioner's application at Exh. 99 for setting aside the order dated 14.01.2022 of closure of evidence and for issuance of witness summons to the Chief Executive Officer of the Municipal Council, Jalna has been rejected.

2. The petitioner is the defendant in the suit instituted by the plaintiff under Maharashtra Rent Control Act seeking plaintiff's eviction. Upon being asked as to why the evidence of the Chief Executive Officer, Jalna Municipal Council is necessary, the learned Counsel appearing on behalf of the petitioners submits that the plaintiff in the suit is claiming a right of ownership. It is incomprehensible as to how issue of ownership can either be raised, even be decided in the suit for eviction under the provisions of

Maharashtra Rent Control Act invoking the provisions of the said Act. Nonetheless, petitioner was granted an opportunity to examine Chief Executive Officer, Municipal Council, Jalna by issuing witness summons. Although the petitioner's application was allowed on 16.03.2021, he took time of seven long months to deposit Bhatta for the service of summons on the witnesses. The witnesses ultimately appeared before the Court on 16.12.2021, that time the petitioners failed to examine him. On account of Petitioner's failure to examine witness who was present in the Court, the trial Court was left with no option but to direct the closure of evidence of the petitioners on 14.01.2020. The petitioners again maintained silence for over seven months and filed application at Exh. 66 on 01.08.2022 for setting aside the order of closure of evidence and for issuance of witness summons to the Chief Executive Officer, Municipal Council, Jalna.

3. After noticing aforementioned conduct of the petitioners the trial Court has proceeded to reject their application. I do not find any error being committed by the Court below while doing so. The petition is devoid of any merits and is dismissed without any order as to the costs.

(SANDEEP V. MARNE)
JUDGE

mahajansb/