

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

**901 APPLICATION IN EP NO. 10 OF 2022  
IN EP/13/2019 WITH EP/13/2019**

**RAHUL MAHARUDRA MOTE  
VERSUS  
TANAJI JAYAWANT SAWANT AND OTHER**

...

Advocate for Petitioner : Mr. Ameet R. Vaidya h/f Gaikwad Hiraji T.

Advocate for Respondent No. 1 : Mr. Anat R. Devakate

**CORAM : MANGESH S. PATIL, J.**

**DATE : 09.12.2022.**

**PER COURT :**

By way of this application, simultaneously with the affidavit in examination in chief, the petitioner is seeking production of documents.

2. I have heard the learned advocates of both the sides.

3. The learned advocate for the petitioner submits that at the stage of production of documents, nothing further is required to be examined much less regarding the admissibility or otherwise or the evidentiary value of the documents being placed on record. The petitioner obviously will have to discharge the burden and prove these documents. However, production cannot be opposed when the respondent No. 1 is still getting an opportunity to controvert everything.

4. The learned advocate Mr. Devkate for the respondent no. 1 submits that the production has been sought at belated stage. Going by the rules framed by the Bombay High Court under the Representation of the People Act, 1951 the production has been sought after the affidavit in examination in chief is tendered. Some of the documents are in the form of affidavits. In

respect of some of the documents, the respondent No. 1 had not been given any notice. It would cause serious prejudice to him if the production is allowed.

5. True it is that the documents which the petitioner is now seeking to produce could have been produced earlier also. However, that is not the sole parameter while entertaining an application for production of documents.

6. Similarly, the worth of the documents cannot be gone into and decided at this preliminary stage when merely production is being sought. Even if it is assumed that some of these documents could have been produced earlier that cannot be a ground to refuse production more so when the respondent No. 1 will have every opportunity even to put these documents and subject the petitioner to cross examination touching the contents of these documents.

7. However, apart from the documents being sought to be produced, the petitioner is also producing some affidavits of certain individuals (at Sr. No. 35 to 41) some of whom he has already mentioned in the list of witnesses. Being the affidavits, when the evidence has already begin, it would be appropriate for the petitioner to call these individuals as witnesses and there is no question of permitting them to file affidavits at this stage. Consequently, excluding the documents at Sr. No. 35 to 41, the production is allowed. The respondent No. 1 shall now admit or deny the documents, production of which is allowed.

8. The Civil Application is disposed of.

9. S.O. to 19.12.2022.

(MANGESH S. PATIL, J.)

mkd/-