

K.S. Jadhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15062 OF 2022

Pukhraj Kanmal Sanghvi & Anr.

...Petitioner

Versus

Premlal Jethmal Munot

...Respondent

Mr. Prathamesh Bhargude a/w Mr. Sumit Sonare, Advocates for
Petitioner.

Mr. Sharad Chandrachood, Advocate for Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 19TH DECEMBER, 2022.

ORDER :

1. By this Writ Petition filed under Article 227 of the Constitution of India, the Petitioner has impugned the order dated 29th September, 2022 passed by the 6th Additional Small Cause Judge & Joint Civil Judge Senior Division, Pune in Civil Suit No.254 of 2014.

2. The main grievance of the Petitioner is with regard to the Witness Summons issued to the Registrar of the Sub-Registrar Office, Haveli pursuant to an application of the Respondent which did not mention the reason, as to why the Summons is sought to be issued

against the Registrar who has no connection with the dispute involved in the present suit before the lower Court. Reference is made to Paragraph 5 of the impugned order, wherein the submission of the learned Counsel for the Plaintiff has been recorded that the Plaintiff's suit is for recovery of possession on the ground of bonafide and reasonable requirement of the suit premises. The Plaintiff's son had taken another premises on Leave & License basis for carrying on his business, though he is the owner of the suit premises. In order to prove bonafide and reasonable requirement in respect of the suit premises of the Plaintiff and also on the point of comparative hardship, the document registered at Serial No.12690 of 2020 in the Sub-Registrar Office, Haveli was required to be brought on record and therefore, the application for Witness Summons was allowed.

3. The learned Counsel for the Petitioner has referred to the settled law that summons issued to the witness requires reasons as to why the witness is required to be produced. This is the reason why the Courts insist on the parties to the litigation to file the list of witnesses and discretion be exercised by the Court to insist that such party filing the list of witnesses should briefly indicate the purpose of

summoning the particular person as a witness. He has relied upon the decision of the Supreme Court in *Kokkanda B. Poondacha and Ors. Vs. K.D. Ganapathi and Anr., (2011) 12 SCC 600 at Paragraph 18* and the decision of the Supreme Court in *Union of India Vs. M/s Orient Engg. & Commercial Co. Ltd. and Anr., (1978) 1 SCC 10 at Paragraph 3* in this context.

4. The learned Counsel appearing for the Respondents has submitted that the sole purpose for summoning the Registrar as a witness was under Order 16 Rule 6 of the Code of Civil Procedure, which is for summons to produce the documents. The Registrar is only required to produce the document registered at Serial No.12690 of 2020 with the Sub-Registrar Office, Haveli. There was a dispute raised by the Petitioner / Original Defendant that the document which produced was online copy from the Sub-Registrar office and not the registered document.

5. Having considered the submissions, the Registrar from the Sub-Registrar Office, Haveli is not required to attend personally the Court of 6th Additional Small Cause Judge and Joint Civil Judge, Senior Division, Pune and it would be sufficient that under Order 16 Rule 6 of the Code of Civil Procedure for the Registrar to cause such

document being the registered document at Serial No.12690 of 2020 to be produced.

6. Accordingly, in view of the objection raised by the Petitioner as to there being delay in the proceedings by having the Registrar personally present and giving evidence, the Registrar in the Sub-Registrar Office at Haveli to whom Witness Summons has been issued by the 6th Additional Small Cause Judge & Joint Civil Judge Senior Division, Pune is directed to produce the document registered at Serial No.12690 of 2020 with the Sub-Registrar Office, Haveli, in the Civil Suit No.254 of 2014 pending before the 6th Additional Small Cause Judge & Joint Civil Judge Senior Division, Pune within a period of three weeks from the date of this order.

7. Notice of this order shall be served upon the Registrar in the Sub-Registrar Office, Haveli by the Advocates for the Petitioner.

8. The Writ Petition is accordingly disposed of.

[R.I. CHAGLA, J.]