

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7499 OF 2022

M/s. Ganpati Agency
Shri Tatipalli Shrinivas s/o Sudarshan,
Proprietor of M/s. Ganpati Agency,
Aged about 45 years, Occ. Business,
R/o. Narsingpur, Post Shitpur,
Tah. Mandal Jaipur, Dist. Mancheria,
Telangana.

.. Petitioner

Versus

1. Yelmannchili Shrinivasrao s/o Prasadrao
Aged about 54 years, Occ. Business.

2. Yelmannchili Sahit s/o Shrinivasrao
Aged about 25 years, Occ. Business,

Respondent Nos.1 & 2, R/o Plot No.402,
Venkatrama Towers, Skyline Centre,
Bashirbagh, Hyderabad – 500029

And

M/s. Hemchala Laxminarsinhaswami
Minerals, Aarda, Tah. Sironcha,
Dist. Gadchiroli.

3. State of Maharashtra,
Through Collector,
Gadchiroli.

4. District Mining Officer, Collectorate,
Gadchiroli.

5. The Tahsildar, Sironcha, Tah. Sironcha,
Dist. Gadchiroli.

.. Respondents

Mr. N.R. Bhishikar, Advocate for petitioner.

Mr. R.R. Vyas, Advocate for respondent No.1.

Mr. K.L. Dharmadhikari, AGP for respondent Nos.3 to 5.

CORAM : VINAY JOSHI, J.

DATED : 02.12.2022.

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the rival parties.

(2) The petitioner-plaintiff has challenged the order dated 06.10.2022 passed in Commercial Suit No.14/2022, whereby the production has been allowed. It is the petitioner's contention that first time during his cross-examination, defendants have produced certain documents, which is impermissible. It is the petitioner's main grievance that intended document was in Telgu language and therefore, the petitioner/plaintiff sought time to take necessary instructions to file reply in resistance. According to the petitioner, the learned trial Court has not given an opportunity to him, but, on the very day without giving time, decided the application.

(3) The documents were tendered in Court on 06.10.2022, with an application seeking permission for production. On that day, the plaintiff filed an application (page 62) seeking time to respond by stating that the document is in Telgu language and it was

not supported by affidavit of translator. Admittedly, on the very day the application was allowed, obviously without plaintiff's reply.

(4) The learned counsel for the petitioner by relying on the decision of this Court in Writ Petition No.7717 of 2019 in case of *Mohammed Abdul Wahid Vs. Nilofer and Ors.*, decided on 09.02.2021, would submit that the production at said stage is not permissible. Anyhow, it is apparent that there was no reply in resistance to the application for production, which exercise is required to be done. Therefore, the impugned order is required to set aside for fresh adjudication on merit.

(5) In view of above, the writ petition is allowed and disposed of. Impugned order dated 06.10.2020 passed below Exhibit 99 in Commercial Suit No.14/2022, is hereby quashed and set aside. Application for production of documents (Exhibit 99) is restored. The petitioner shall file his reply to application Exhibit 99 on 09.12.2022, which is informed to be the next scheduled date of summary suit. The trial Court shall decide said application within **two weeks** thereafter.

(6) The parties undertakes to argue the matter on the date which shall be fixed by the trial Court.

(7) Rule is made absolute in aforesaid terms with no order as to costs.

[VINAY JOSHI, J.]

Prity