

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 12574 OF 2022**

Deepak Pandurang Patil

.. Petitioner

Versus

Pandit Vasant Ingavale

.. Respondent

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- Mr. Tanaji Mhatugade for Petitioner
 - Mr. Bhooshan R. Mandlik for Respondent
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CORAM : MILIND N. JADHAV, J.**DATE : JANUARY 20, 2023.****P.C.:**

1. Heard Mr. Mhatugade, learned Advocate for Petitioner and Mr. Mandlik, learned Advocate for Respondent.
2. Perused the impugned order dated 18.04.2022 in R.C.S. No. 525 of 2020 below Exhibit-15. The application below Exhibit-15 has been filed by the Plaintiff (Respondent in Writ Petition) seeking a direction to him to produce a document i.e. mortgage deed dated 23.04.1945 which according to the Plaintiff is the cause of action for filing the suit.
3. After hearing both the sides and perusing the impugned order it is seen that the learned Trial Court has in fact passed an order which enures to the benefit of the Petitioner i.e. Defendant before the Trial Court. The findings returned by the learned Trial Court in paragraph No.3 are reproduced below:

“3. Heard both sides. Perused application, say and record of the case. The perusal of the application goes to show that the defendant is by way of present application claiming for issuance of directions to the plaintiff to produce the mortgage deed on the basis of which the suit is filed. On the contrary the plaintiff submitted that he has tried to obtain the certified copy of the same from respective revenue authority but it could not be traced despite searching. As the plaintiff has shown his inability to produce the document on record, it is his duty to prove his claim in absence of the said document. The matter is at preliminary stage. Evidence of parties yet not started. At this primary stage no party can be compelled by the Court to produce the documents. Needless to say that plaintiff has to prove his case by his cogent evidence. Considering these facts and circumstances application is liable to be rejected. In result, the following order is passed :

ORDER

The application stands rejected.”

4. It is seen that the reasons given by the learned Trial Court as aforestated in paragraph No.3 are not only cogent reasons but are also in accordance with law.
5. The Application below Exhibit-15 admittedly has been filed is premature and rightly deserves at this stage.
6. The impugned order is thus sustained. Needless to state, all contentions of the Petitioner i.e. Defendant in respect of seeking production of the mortgage deed dated 23.04.1945 in the course of the Trial proceedings are expressly kept open.
7. Writ Petition disposed.

[MILIND N. JADHAV, J.]