

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1888 OF 2023**

Bababai Arjun Matala .. Petitioner
 Versus
 Narayan Ganpat Vinchurkar .. Respondent

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 • Mr. Swapnil Suresh Mhatre, Advocate for Petitioner

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2023.

P.C.:

1. Heard Mr. Mhatre, learned Advocate for Petitioner and perused the record and pleadings of the case.
2. The present Writ Petition take exception to the order dated 23.11.2022 passed below Exh.55 and 56 by the learned Trial Court.
3. Exh.55 has been filed by the Defendants for seeking permission to examine the witnesses whose names are mentioned in the list of witnesses filed below Exh.66. It is the Petitioner's case that he desires to issue witness summons to the said witnesses whose names are appearing in Clause Nos.1,2,3 and 4 of his application filed below Exh. 56 which is at page No. 82-83 of the Petition. Petitioner desires to summon (i) Gramsevak, Govardhan, Tal. & District Nashik, (ii) Chief Registrar, Bharat Sanchar Nigam Ltd., Nashik, (iii) Executive Engineer, Maharashtra State Electricity Board, Gangapur, Tal. & Dist.

Nashik, and (iv) Election Returning Officer, Dindori Election Association, Tal. Dindori, Dist. Nashik to step into the witness box and produce documents sought to be produced by the Petitioner.

4. The learned Trial Court has considered the application as also the decision of this Court in the case of *Anil Ramesh Bhusari Vs. Bhaskar Ramesh Bhusari*¹ and held that it is settled principle of law that no witness summons can be issued for production of public documents as parties are liberty to procure certified copies of the public record and thereafter refer to and rely upon them in the context of the suit proceedings in accordance with the provisions of the Indian Evidence Act, 1872.

5. It is the contention of Petitioner that though he applied for the certified copies of the documents from the concerned department they have refused to give them to him. If that be so, Petitioner is at liberty to file appropriate appeal proceedings under the Right to Information Act, 2005. That apart, save and except the bare statement of the Petitioner in the Application no other details of documents, refusal are provided in the Application.

6. The learned Trial Court has in fact after perusing the record returned a finding that the contention of the Petitioner that she had applied for certified copies is incorrect, as the date of her Application was subsequent to the date of application made by by the Petitioner

¹ 2014 (5) Mh.L.J.792

below Exh.55.

7. The application filed by the Petitioner is nothing but an abuse of due process of law and a clear attempt to unnecessarily protract the suit proceedings pending before the learned Trial Court.

8. The impugned order does not call for any interference as it correctly records the findings and it is sustained.

9. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

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