

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.11666 OF 2022**

Shree Raj Shruti Residency Pvt. Ltd. ....Petitioner

**Versus**

Romesh Sharma & ors. ....Respondents

Mr. Pradeep Thorat with Mr. Javed Akhtar, i/b. Mr. Bipin Jayantilal Joshi, Advocate for the Petitioner.

Mr. Girish Godbole, Senior Advocate with Ms. Eventa Andrea Gonsalves and Mr. Reyden L. Gonsalves, Advocate for Respondent No.1.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 5<sup>th</sup> APRIL, 2023.**

**P.C. :**

1. Heard learned counsel for the petitioner and learned counsel for respondent No.1.

2. Rule. Rule made returnable forthwith. By consent of learned counsel for the parties, the matter is heard finally.

3. It is contention of learned counsel for the petitioner that the predecessor of petitioner had filed suit against respondent Nos.1 and 3. During the pendency of the suit, petitioner has purchased property from original landlord i.e. plaintiff No.1 in the year 2014.

The evidence of PW1 is completed. Thereafter, respondent No.1 filed an application seeking direction to the petitioner for giving inspection of documents. The said application is allowed by the Trial Court without any reasonable cause. The petitioner had filed deed of assignment, by which, the petitioner purchased the suit property, on record, the respondent No.1 sought inspection of some documents which are mentioned in the deed of assignment which are not relevant but the Trial Court has not considered this fact and passed impugned order, which is under challenge. Learned counsel further submits that the respondent No.1 is sub-tenant of respondent No.3 who has no right in the suit premises and he cannot challenge the title of the petitioner as owner. Hence, requested to allow the writ petition.

4. Learned counsel for the petitioner, in support of his submissions, has relied upon the decision of the Apex Court in the case of **Kamlesh Singh Harnamsingh Chowhan versus Jayalaxmi Kantilal 2009 (1) Mh.L.J..**

5. It is contention of learned senior counsel for respondent No.1 that during pendency of the suit, after completion of evidence of plaintiff -PW1, amendment was carried out in the original

proceedings and after amendment, pleadings in respect of deed of assignment was mentioned in the plaint. On that basis, respondent No.1 filed an application seeking direction to petitioner for giving inspection of deed of assignment and relevant documents. The petitioner claims to have got ownership of suit property. As derivative title, the respondent No.1 has a right to challenge it. In the deed of assignment, it is mentioned how the petitioner has received the ownership of the suit property. Hence, documents mentioned in the deed of assignment are relevant and requested to dismiss the writ petition.

6. I have heard both learned counsel, perused the impugned order dated 5<sup>th</sup> August 2022 passed by the Trial Court below Exhibit “312” . It appears that the plaintiffs are relying upon the deed of assignment at Exhibit “200” and on that basis, the Trial Court has allowed the application filed by respondent No.1 directing the petitioner to give inspection of documents mentioned in the application. In my view, Trial Court has not considered the fact that the petitioner is not relying on the documents mentioned in the deed of assignment but petitioner is only relying on deed of assignment. There is reference of some documents in the deed of assignment

but it does not mean that the petitioner was relying on these documents. The petitioner is relying on deed of assignment and the original of it, is already placed on record. So it cannot be said that each and every document mentioned in the deed of assignment was relied upon by the petitioner but this fact is not considered by the Trial Court. Moreover, learned counsel for the petitioner submits that petitioner has no originals of the documents of agreement of lease in respect of the suit property between Ramnarain Sons Pvt. Ltd. And M. Ramnaran Pvt. Ltd. referred in Clause (E) of the deed of assignment which are mentioned in the application filed by defendant No.2-Romesh Sharma. In respect of documents mentioned in prayer clauses (iv) and (v) of the said application are concerned, it relates to Suit No.1642 of 1980 filed in this Court, respondent No.1 can take certified copies of these documents from the concerned department.

7. Learned senior counsel for respondent No.1 submits that if the petitioner does not have original of documents mentioned at prayer clause (a) (ii) and (iii) of the said application, xerox copies of these documents be provided for reference. Learned counsel for the petitioner submits that before cross-examination of petitioner's

witness, the petitioner will provide xerox copies of the documents mentioned at prayer clause (a) (ii) and (iii) without prejudice to the rights of the petitioner. His statement is accepted.

8. In view of above, I pass following order :

1. The writ petition is partly allowed.
2. The order dated 5<sup>th</sup> August 2022 passed below Exhibit "312" by the Trial Court is modified as under :  
  
"Respondent No.1 can take certified copies of the documents mentioned in prayer clause (a) (iv) and (v) of the application from the concerned department and petitioner shall provide xerox copies of the documents mentioned in prayer clause (a)(ii) and (iii) to the respondent No.1."
3. Contentions of all parties are kept open.
4. The documents mentioned in prayer clause (a) (ii) and (iii) of the application are provided without

prejudice to the rights of the parties.

9. Rule is allowed in above terms. Writ Petition stands disposed of.

10. Pending applications, if any, stand disposed of.

**(SHIVKUMAR DIGE, J.)**