

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

WRIT PETITION NO.4087 OF 2018

(RAJENDRA RAMESHCHANDRA DIDWANI...VS.. THE COMMISSIONER, AKOLA MUNICIPAL CORPORATION, AKOLA)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Sagar Katkar, Advocate, Advocate for Petitioner.
Shri Amol Deshpande, Advocate for Respondent.

CORAM : ANIL S. KILOR, J.

DATED : FEBRUARY 02, 2023.

1. Heard.
2. The order allowing production of photographs for the cross-examination of the plaintiff by the defendant vide impugned order dated 11/04/2018 passed by 10th Joint Civil Judge Junior Division, Akola in Regular Civil Suit No.397 of 2010, is under challenge in this writ petition.
3. The learned counsel for the petitioner submits that earlier also similar photographs were filed on record and there was no requirement to file fresh photographs of the suit property on record and this was not considered by the learned trial Court and thereby committed error.
4. On the other hand, the learned counsel for the respondent supports the impugned order and submits that as per the provisions of Order XIII Rule 1(3)(a), it is permissible to produce documents in the cross-examination of the witness of the other party.

5. In the light of the rival submissions, I have perused the writ petition, documents filed along with the writ petition and the impugned order.

6. Considering the short controversy, whether for cross-examination of the plaintiff permission granted by the learned trial Court to the defendant to produce photographs is permissible, it would be appropriate to refer to the provisions of Order XIII Rule 1(3)(a) of the C.P.C., which reads thus:

“O XIII R 1 :

(1) The parties or their pleader shall produce on or before the settlement of issues, all the documentary evidence in original where the copies thereof have been filed along with plaint or written statement.

(2) ...

(3) Nothing in sub-rule (1) shall apply to documents-

(a) produced for the cross-examination of the witnesses of the other party; or .

(b) handed over to a witness merely to refresh his memory.”

7. After going through the above referred provisions, it is clear that the Court can permit to produce documents for the cross-examination of the witness of the other party under the above referred provision and considering the fact that the defendant wanted to produce the photographs for cross-examination of the plaintiff, I

am of the opinion that no legal infirmity has been committed by the learned trial Court in allowing the application. Accordingly, I pass the following order:

The writ petition is **dismissed**. No order as to costs.

JUDGE

RRaut.