



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

Writ Petition No.6034 of 2022

MUKTA WD/O MAKRAND BHUSARI AND OTHERS

VS

MALTI WD/O MADHUKAR BHUSARI AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S. Alaspurkar, Advocate for the Petitioner/s

Shri A.M. Sudame, Advocate for the respondent Nos.1 and 2

CORAM : ANIL S. KILOR, J.

DATED : 29.08.2023

1. Heard.
2. The order below application Exh.77 dated 01.04.2022 passed by Civil Judge Senior Division, Amravati, filed by the petitioners/defendants under Order 16 Rule 6 and 7 read with Section 151 of the Code of Civil Procedure (CPC) for issuance of summons to produce documents, rejecting the same is under challenge in this writ petition.
3. The petitioners are the defendants in the suit filed by the respondents/plaintiffs for partition. On the application for issuance of notice to produce the documents under Order 16 Rule 6 and 7 read with Section 151 of the Code of Civil Procedure (CPC), in reply the plaintiffs/respondents have stated that the said documents have not been referred in the pleadings regarding existence by the plaintiffs and therefore, the notice to produce the same is not tenable.

4. While deciding the application under Order 16 Rule 6 and 7 read with Section 151 of the of the CPC, the learned trial Court without considering the reasons stated by the petitioners in the application for issuance of summons to produce the documents and without considering the provisions, namely the Order 16 Rule 6 and 7 read with Section 151 of the of the CPC, passed a cryptic order. In the circumstances, I am of the opinion that the matter needs to be remanded back to the learned trial Court for deciding the same afresh. Accordingly, I pass the following order:

(i) The writ petition is **partly allowed**.

(ii) The order below Exh.77 dated 01.04.2022 passed by the learned Civil Judge Senior Judge, Amravati, is hereby quashed and set aside and the matter is remanded back to decide the application Exh.77 afresh, after hearing both the parties.

(iii) The learned Civil Judge Senior Judge, Amravati is directed to decide the application Exh.77 within 3 weeks from today and thereafter, expedite the suit and decide the same within one year from today.

[ANIL S. KILOR, J.]