



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

36 WRIT PETITION NO. 4540 OF 2025

MADANLAL SHANTILAL KHIVSARA

VERSUS

SANTOSH VISHVNATH SHIMPI

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Advocate for the Petitioner : Mr.G.D.Jain
Advocate for Respondent : Mr.V.D.Khivesara h/f.
Mr.R.S.Wani

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CORAM : ARUN R. PEDNEKER, J.

DATE : 03.11.2025

P.C. :

1] By the present Writ Petition, the petitioner challenges the impugned judgment and order dated 17.02.2025 passed by the Civil Judge Junior Division, Nandurbar below Exh.19-D, thereby rejecting application filed by the petitioner for issuing fresh summons to the witness at the new address.

2] The learned counsel for the petitioner submits that the application was filed by the petitioner for issuing fresh summons to the witness at the new address as the witness was not available on old address. He further submits that the Civil Judge Junior Division, by the impugned order dated 17.02.2025, has rejected the application. He further submits that this witness is required to be examined as his evidence is necessary to demonstrate

that there is no other alternate accommodation is available for the petitioner in the vicinity. However, the trial Court has rejected the application of the petitioner considering that the petitioner has not given correct address of the witness and the matter has been continuously delayed by the petitioner and the petitioner is a tenant of the suit property.

3] Having perused the order of the trial Court. *Prima facie*, the observations of the trial Court that the application filed by the petitioner for issuing fresh summons to the witness at the new address is only to protract the suit and the suit is pending for consideration since 2018 and the petitioner ought to have given correct address in the first instance. It is also not demonstrated before me that the concerned witness is some kind of expert and that the evidence of other witness of the petitioner would also be considered on the aspect of availability of alternate accommodation in the vicinity. As such, no case is made out. Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE

DDC