



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 3431 OF 2024

SANDIP PURUSHOTTAM NISHANE AND ANOTHER
VERSUS
RAMESH CHANDRAKANT BHALE AND OTHERS

Mr. R. P. Dhase, Advocate for the petitioners
Mr. R. T. Wakale h/f Mr. S. A. Bhagyawant, Advocate for respondent No.1
Mr. R. G. Joshi, Advocate for respondent Nos.2 and 3.

CORAM : R. M. JOSHI, J.

DATE : 27th FEBRUARY, 2025

PER COURT :-

1. This petition takes exception to order passed below Exhibit 21 in R.C.S. No. 14/2023, whereby the Trial Court has directed to defendant Nos.2 and 3/petitioners herein to produce documents.

2. The facts which led to the filing of this petition can be narrated in brief as under:

(i) The petitioners claims to be in the business of medical distributorship since last 25 years. Petitioners and respondents have family relation and a partnership business was established. Respondent/plaintiff filed suit against the defendants with specific averment that a sum of Rs.5 lakhs was received by the defendants for the purpose of investment but the investment was not done and the said amount is siphoned. Defendants filed written statement and refuted the

allegations made in plaint.

(ii) During the pendency of the suit, application Exhibit 21 came to be filed for production of document by defendant Nos.2 and 3. Learned Trial Court allowed the application with observations that the defendant Nos.2 and 3 in written statement have admitted the fact about receipt of Rs.5 lakhs. In the light of this fact and more particularly when there was no dispute made by the petitioners about the custody of the said document, Trial Court allowed the application.

3. Learned counsel for the petitioner submits that this a collusive suit filed by the plaintiff defendant No.4 and his son against contesting defendants. It is further contention that defendant Nos.2 and 3 have already produced the documents before the Trial Court and that there is no justification to allow application Exhibit 21. It is sought to be argued across the bar that these petitioners/defendant Nos.2 and 3 are not having the custody of the documents which are sought to be produced before trial Court.

4. Since submission is made that petitioners do not have custody of the documents concerned, learned counsel for the petitioner for call upon to point out any such stand being taken before the Trial Court. Perusal of the reply filed before the Trial Court does not show that

these defendants have denied the custody of the documents. Leave apart say being filed to the application Exhibit 21, even in this petition it is not claimed that documents in question are not in the custody of the petitioner. This Court therefore finds no reason to accept the oral submission made before this Court about denial of the custody of said documents

5. Perusal of the impugned order read with the pleadings before the Trial Court indicate that the documents in question are relevant for the decision of the case. As such, this Court finds no reason to cause any interference in the impugned order for want of perversity. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp