



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10229 OF 2023

Sampada Sudhanshu Deshmukh

VERSUS

Vimal Piraji Pawar

.....

Mr. Pravin N Kalani, Advocate for the Petitioner

Mr. M.R. Sonawane, Advocate for the respondent

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 19th DECEMBER, 2025

ORDER :

1. Heard learned counsel for the respective parties.
2. By this petition, petitioner assails the order dated 16.03.2023 passed by 3rd Joint Civil Judge, Junior Division, Parbhani below Exhibit-19 in Regular Civil Suit No. 156/2023, whereby application filed by the petitioner for leading secondary evidence came to be rejected.
3. Learned counsel for the petitioner submits that petitioner/defendant in the written statement has specifically averred that the original documents are not traceable due to pandemic and therefore, as the petitioner/defendant having photocopies of those documents, he wants to prove the same by leading secondary evidence. But the learned Trial Court rejected the application on the ground that evidence of defendant is

yet to be started and despite of due diligence defendant has not produced those documents.

4. Per contra, Mr. Sonawane, learned counsel for the respondent supports the impugned order and disputes the contention raised by the petitioner.

5. Considering the arguments advanced by both the counsels and after going through the order, the Trial Court rejected the application mainly on the ground that evidence of the petitioner is yet not started and there was no due diligence. Both these grounds are contrary itself. If the evidence of the defendant is yet to be started, the Trial Court on that count, ought not to have rejected the application of the petitioner. The petitioner has come with a case that he is not having original documents, but he has preserved the photocopies. Therefore, he may be permitted to prove the same by leading secondary evidence. Therefore, considering these facts, I am inclined to allow the application filed by the petitioner.

6. In view thereof, writ petition is allowed.

7. Order dated 16.03.2023 passed by 3rd Joint Civil Judge, Junior Division, Parbhani below Exhibit-19 in Regular Civil Suit No. 156/2023 is hereby quashed and set aside.

8. Application filed by the petitioner below Exhibit-19 is allowed.

(SIDDHESHWAR S. THOMBRE)
JUDGE