

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

966 WRIT PETITION NO. 12438 OF 2024

Suraj Construction Through Its Prop Sunil Hanumandas Malpani

VERSUS

Granthi Khushwantsing Mahendrapreetsing

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Mr. Swapnil S. Patil, Advocate for the Petitioner

Mr. Aniket Sonpethkar, Advocate for sole respondent

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CORAM : ROHIT W. JOSHI, J.

DATED : 22th JULY 2025

PER COURT :-

1. The present petitioner who is defendant in a suit for specific performance of contract being Special Civil Suit No.236 of 2015 had filed an application vide Exhibit-46 *inter alia* seeking directions against the plaintiff to produce his bank account statement on record as agreed by him during the course of his cross-examination. The said application filed by the defendant vide Exhibit-46 is rejected by the learned Trial Court vide order dated 28.06.2024.

2. The learned Trial Court has observed that in a suit for specific performance the burden is always on the plaintiff to prove his readiness and willingness and failure on his part to produce the bank account statement, despite agreeing to do so during the course of his cross examination will be subject to consequences that the plaintiff will have to suffer.

3. The learned Trial Court has rightly observed that the consequences of not filing the document on record despite agreeing to do the same will follow. It will be open though not necessary, for

the learned Trial Court to draw adverse inference against the plaintiff for not producing his bank account statement.

4. Needless to mention that other evidence will also be evaluated on its own merits.

5. In view of the aforesaid, case for interference is not made out. Writ petition is therefore dismissed.

[ROHIT W. JOSHI, J.]