



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 WRIT PETITION NO.12942 OF 2023

Gauri Vijay Gurav And Another
VERSUS
Sharad Shamrao Gurav And Others

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Advocate for Petitioners : Mr. Y V Kakde
Advocate for Respondents : Mr. S.V. Natu
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CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 30, 2025

ORDER :-

1. Petitioners impugn the order dated 7.6.2023 passed by learned Civil Judge Senior Division, Ahmednagar, below Exhibit-72 in Special Civil Suit No.221 of 2020, by which application filed by petitioners for issuing witness summons to the Branch Manager Ahmednagar City Cooperative Bank has been rejected.

2. Mr. Kakade, learned advocate appearing for petitioners submits that, petitioners have claimed relief of partition and separate possession thereby seeking 1/5th share from suit property, so also shares in various firms of joint family. According to Mr. Kakde, for the purpose of discharging burden of proof put on shoulder of plaintiffs, they require to

bring on record bank transactions of firms so also accounts of defendants. The presence of Branch Manager is necessary with record. Therefore, application was made for issuance of witness summons to Bank Manager to remain present alongwith documents as mentioned in application. However, application has been rejected by Trial Court giving reason that no pleadings in respect of such document find place in plaint.

3. Per contra, Mr. Natu, learned counsel appearing for respondents submits that prayer made in application is premature. Plaintiffs seeks production of bank account details of all the firms, so also personal accounts of four persons mentioned in the application. If such prayer is granted, then defendants would be required to bring accounts of Firms, which is final prayer in suit. Therefore, at this stage, application cannot be entertained.

4. Having considered submissions advanced, it can be observed that plaintiffs instituted the suit for partition and separate possession of the suit property so also to rendition of accounts in respect Firms for last three years and grant of 1/5th share to plaintiffs. Looking to prayers in the suit, plaintiffs will have to establish right in aforesaid firms or prove

that firms are owned by joint family. In case, plaintiffs prove their case on aforesaid aspects, the question would arise as to rendition of accounts. Therefore, at present, there is no reason to entertain plaintiffs application to call Branch Manager alongwith the record of the Firms and lead the evidence in that regard.

5. The application Exhibit-72 do not specify as to how bank record would be relevant to prove case of plaintiffs. Learned Trial Court observed that, in absence of pleadings about bank accounts of firms and persons referred in the application, application cannot be considered. The reasons as recorded by Trial Court cannot be faulted. No case is made out to interfere in writ jurisdiction of this Court. Hence, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR)
Judge

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