



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

901 WRIT PETITION NO. 12013 OF 2025

AJAY AMRUTLAL BORA

VERSUS

SHASHIKALA POPAT BORA AND OTHERS

...

Advocate for the Petitioner : Mr. Shaikh Mazhar A. Jahagirdar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 16.10.2025

PER COURT:

1. This court issued notice on 15.10.2025 and made it returnable on 12.11.2025 and till the next date it was directed that the trial court may adjourn the suit. However, it was not brought to the notice of this court by the learned counsel for the petitioner that the suit is expedited by the Hon'ble Supreme Court by order dated 22.01.2025. This court also did not notice that the matter is expedited and the said fact is mentioned in the impugned order of the trial court at para 10. This court on noticing the fact that the matter has been expedited by the Hon'ble Supreme Court again listed the matter today high on board for hearing. Accordingly, the matter is listed today and heard. The learned counsel for the petitioner has substantially argued the matter today.

2. The facts of the case in brief are that the plaintiff / petitioner filed the suit seeking declaration and possession of the suit property and injunction restraining the defendants. It is contended by the petitioner that the suit property bearing final plot no.17 of village Chahurana Budurk within the limits of Ahmednagar Municipal Council admeasuring 1110 Sq.Ft. having two storey building is owned by defendants no.1 to 4 and that the plaintiff and defendants no.1 to 4 are the members of the Bora family. The family is having ancestral business of agricultural equipment, pesticides, seeds etc. The suit property was originally owned by one subhashchand Kundanmal Bora and it was sold out in the year 1990 to Popatlal Ganeshlal Bora. It is stated that the suit property was in possession of the partnership firm and after dissolution of the partnership firm the property remained with the plaintiff. The plaintiff is occupying and utilizing the suit property for his shop. The plaintiff's name is recorded in Municipal Council, shop license is in the name of brother of plaintiff. It is stated that defendants no.1 to 4 are having their own business in the market yard and they have no right over the suit property and that the defendants have admitted the hostile possession and ownership of the plaintiff over the suit property.

3. The orders passed in interim relief application filed in the suit were carried upto the Hon'ble Supreme Court. The Hon'ble Supreme Court, on 22.01.2025 in SLP filed by the respondent / defendant passed the following order:

“ **O R D E R**

1. *Delay condoned.*

2. *...*

3. *This, in our considered view, was done on the premise that the respondent herein was occupying the premises, which factually, as we are now informed, was not correct. It is undisputed that, at this point in time, it is the petitioner herein who is in possession of the suit premises.*

4. *...*

5. *In the attending facts and circumstances, we dispose of the present petition with the following terms:*

a) *The impugned judgment and order dated 19.04.2022 in W. P. No.3943 of 2022, passed by the High Court of Judicature at Bombay, Bench at Aurangabad is quashed and set aside.*

b) *Hearing in the Special Civil Suit No.159 of 2021 is expedited.*

c) *The parties undertake to fully cooperate and not take any unnecessary adjournments.*

d) *We request the trial court to decide the suit preferably within a period of nine months from today.*

e) *The parties shall appear before the trial Court on 25.02.2025.*

f) *During the pendency of the trial, the status quo, as on today, in terms of the order expressed supra shall be maintained with regard to the property in question.*

g) *All contentions are left open.*

6. Pending application(s), if any, shall stand disposed of.”

4. While the suit was at the stage of evidence, the plaintiff filed application at Exhibit-98 seeking direction for calling the witness of the municipal authority to prove the licence issued under the shop act and also the municipal taxes paid. The said application was opposed by the defendants and it was rejected by the learned trial court by order dated 09.05.2025 holding that the plaintiff intends to examine 15 witnesses as mentioned in the application which is opposed by the defendants. The plaintiff petitioner filed a petition challenging the said order in Writ Petition No.8822 of 2025. Notice is issued by this court on 22.07.2025 and is pending consideration.

5. After closure of the evidence of the plaintiff, the defendants filed an application at Exhibit-111 for summoning the officer from the municipal corporation to prove the payment in respect of municipal taxes paid by him of the year 2016-2017 and the Bank Manager of Union of India for proving payment made to Ahmednagar Municipal Corporation in respect of municipal taxes. The said application is allowed by order dated 28.07.2025.

6. While the officer of the Municipal Corporation was being examined as defendant witness, application was filed by the

plaintiff at Exhibit-121 directing the witness of defendant no.2 to file revision register and all the documents brought by the witness in court. It is stated that the witness has brought the documents relating to tax payments and the same has to be filed by him on record as the scope of cross-examination is very vast and in the summons application at Exhibit-111, it is mentioned that the witness has to produce all the relevant documents and accordingly prayer is made to file revision register and all the documents brought by the witness. The said application is rejected by the trial court by holding that the witness summons were issued to the officer of municipal corporation for bringing certified copies of receipt AS/37931 for the year 2016-17 of Rs.34,459/- and the relevant record and to the Branch Manager of the Union Bank of India for bringing account statement in respect of payment made through cheque bearing No.0404259. The witness is called upon to prove the said receipts and not to deposit the entire register which he has brought along with him. The court has also observed that the application filed by the plaintiff earlier to summon witness has also been rejected and considering the same dismissed the application filed by the plaintiff seeking direction to deposit the register bought by the municipal officer.

7. The learned counsel for the petitioner submits that the register and other record brought by the municipal officer is relevant for his case as it would indicate the taxes paid by him and the same would be available in the register. It would also prove his possession over the property. He submits that the cross-examination cannot be limited to the document produced at the instance of the defendants and he can request officer to deposit all the record brought with him in the court.

8. The submissions of the learned counsel for the petitioner is without merit. The municipal officer was present to prove receipt no.AS/37931 for the year 2016-17 of Rs.34,459/- and he cannot be directed to file all the record which he has brought at the instance of the plaintiff. The record brought by the witness would cover range of documents which may not be relevant for the case. The production of the register by the corporation officer would be speculative and not relevant to the case of plaintiff. The plaintiff has to prove his case by filing tax receipts and for proof of the same summons can possibly be issued. In absence of tax receipts produced by the petitioner, a speculative inquiry cannot be conducted at the instance of the plaintiff.

9. Considering the above, no case is made out.

10. The Writ Petition stands dismissed.

[ARUN R. PEDNEKER, J.]

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