

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3786 OF 2025

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Shripatrao Shankarrao Bhosale

...Petitioner

vs.

Pandharpur Municipal Council and Anr.

...Respondents

Mr. Manisha Devkar a/w. Ms. Siddhi Patil i/b. Mr. Shankar Katkar,
for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 18, 2025

P.C:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order dated 17th January, 2024 passed by the learned Civil Judge, Pandharpur whereby the application preferred by the petitioner seeking issue of summons to the concerned officer in the office of District Collector to produce documents, regarding the weekly "Pandhari Vaibhav", of which the petitioner claimed to be the publisher, came to be rejected.
3. The petitioner has instituted a suit for specific performance of the resolutions passed by the defendant-Municipal Council on 29th April, 1985 and on 25th February, 2014, to allot the suit property to the plaintiff. The plaintiff averred that the said property was allotted to the plaintiff under the aforesaid resolutions as the

plaintiff was a Journalist and the Municipal Council had resolved to allot the plots of land to the Journalists. The application to issue witness summons to the concerned officer in the office of the District Collector was filed on the premise that the plaintiff had obtained permission for publishing weekly "Pandhari Vaibhav". However, the said permission and the relevant documents were destroyed in the floods of the year 1988. The relevant record was available with office of the District Collector and, therefore, the summons be issued.

4. The learned Civil Judge was persuaded to reject the application observing, inter alia, that the said documents were not necessary for the determination of the real dispute in the suit. The application was vague. Moreover, from the correspondence that had ensued between the plaintiff and the office of the District Collector, it transpired that the District Collector was not having the custody of those documents.

5. The learned counsel for the petitioner submitted that the learned Civil Judge proceeded on an incorrect premise that the plaintiff was seeking to examine a witness. The summons was prayed only for production of the documents. Therefore, the learned Civil Judge could not have resorted to the provisions contained in Order XVIII Rule 1 of the Code.

6. I have perused the application and the impugned order.
7. The suit is based on the purported resolutions passed by the Municipal Council allotting the suit property in favour of the plaintiff. For the determination of the said suit, the question of legality and validity of the resolutions, the competence of the Municipal Council to allot the municipal property to the plaintiff and the enforceability of the said resolutions would arise for determination. The antecedent facts pertaining to the plaintiff's avocation has no bearing on the determination of the controversy.
8. The application for issue of witness summons to the concerned official of the District Collector is in the nature of an roving inquiry. The learned Civil Judge has thus taken a correct view of the matter. There is no such infirmity in the impugned order as to warrant exercise of supervisory jurisdiction.
9. The petition thus stands dismissed.

(N. J. JAMADAR, J.)