



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5585 OF 2025**

Valor Estate Limited	...	Petitioner
versus		
The Synthetic and Rayon Textiles Export Promotion Council	...	Respondent

**WITH
WRIT PETITION NO.8394 OF 2025**

Valor Estate Limited	...	Petitioner
versus		
The Synthetic and Rayon Textiles Export Promotion Council	...	Respondent

**WITH
WRIT PETITION NO.7959 OF 2025**

Valor Estate Limited	...	Petitioner
versus		
The Synthetic and Rayon Textiles Export Promotion Council	...	Respondent

Mr. Surel Shah, Sr. Advocate with Mr. Rujuta Patil, Mr. Yohaam Shah i/by Negandhi Shah and Himayatullah, for Petitioner in WP No.5585 of 2025.
Ms. Rujuta Patil with Mr. Yohaam Shah i/by Negandhi Shah and Himayatullah, for Petitioner in WP Nos.8394 of 2025 and 7959 of 2025.
Mr. S.N.Vaishnav with Ms. Nupur Mukherjee i/by M/s. N.N.Vaishnawa and Co., for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 26 JUNE 2025

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in these petitions is to orders dated 23 January 2025 passed by the learned Judge, Court of Small Causes, on an application

preferred by the Petitioner seeking directions to the Defendant to produce the documents, namely, the Memorandum of Association, Articles of Association and the annual returns of the Defendant for the years 2010-11 and 2011-12, and, in the event of default on the part of the Defendant, permit the Plaintiff to produce those documents, and mark and read those documents in evidence.

3. The application was resisted on behalf of the Defendant.

4. Learned Judge, Court of Small Causes, was of the view that the Plaintiff had not ascribed any reason as to why notice to produce those documents was not given to the Defendant and the Plaintiff did not produce those documents during the course of recording of Plaintiff's evidence. Learned Judge was of the view that the production of those documents at the stage when the suits were posted for final arguments, would amount to reopening of the evidence; which was impermissible.

5. The Plaintiff has instituted suits for recovery of possession of the demised premises. It was, inter alia, contended that the Defendant is a Public Sector Undertaking, and, thus, protection under the Maharashtra Rent Control Act, 1999 is not available to the Defendant. The said fact is controverted on behalf of the Defendant. The Plaintiff adduced its evidence. After the Plaintiff closed its evidence, the Defendant filed a pursis to the effect that the Defendant does not wish to adduce any evidence. Thereafter, the instant application came to be preferred.

6. Prior to filing of the application, the Plaintiff had addressed a notice to the Defendant on 25 August 2023, calling upon the Defendant to produce those documents. Upon the failure of the Defendant, the application came to be filed.

7. Mr. Surel Shah, learned Senior Advocate for the Petitioner, would urge that the learned Judge, Court of Small Causes has taken a very hyper-technical view of the matter. Despite cogent reasons having been assigned in the application that the Defendant did not produce the documents, though notice was given, learned Judge proceeded on the premise that no reason was ascribed by the Plaintiff seeking the production of the documents. It was further submitted that under the provisions of Order XI Rule 14 of the Code of Civil Procedure, 1908, production of documents can be sought at any stage of the proceedings. Since the question as to whether the Defendant is entitled to protection under the provisions of the Maharashtra Rent Control Act, 1999, is at the hub of the controversy, the production of the documents was necessary for the determination of the controversy. Therefore, the learned Judge committed an error in law in rejecting the application.

8. Mr. Vaishnav, the learned Counsel for the Respondent, resisted the submissions on behalf of the Petitioner. It was urged that the Defendant chose not to lead any evidence, as the Plaintiff failed to discharge the initial burden. The Plaintiff must stand on its own feet. Moreover, recourse to the

provisions contained in Order XI Rule 14 of the Code, was wholly misplaced as the documents were in the custody of the Plaintiff. Therefore, there was no reason for the Plaintiff to seek production of the documents from the Defendant and file an application for production of the documents at the fag end of the trial, when the suits are posted for final arguments.

9. To buttress these submissions, learned Counsel for the Respondent placed reliance on the judgments of this Court in the case of Dr. Hrishikesh Prakash Ghatge V/s. Subhaga Prakash Ghatge and Anr.¹ and a learned Single Judge of Calcutta High Court in the case of India Foils Ltd. V/s. The 5th Industrial Tribunal, West Bengal and Ors.²

10. I have perused the material on record and given careful consideration to the submissions canvassed across the bar. In the wake of the pleadings, the Trial Court by an order dated 23 January 2014 has framed the issue, whether the Defendant's tenancy in respect of the suit premises is not protected under the provisions of the Maharashtra Rent Control Act, 1999. Thus, whether the Defendant is a Public Sector Undertaking, and, therefore, exempted from the Maharashtra Rent Control Act, 1999, is the core controversy to be resolved in the suit.

11. The documents sought to be produced on behalf of the Plaintiff, namely, the Memorandum of Association, Articles of Association and the

1 2018 SCC Online Bom 8744

2 1972 SCC Online Cal 11

annual returns for the years 2010-11 and 2011-12 are necessary for the resolution of the said controversy. It is true, the Plaintiff could have sought production of those documents at an earlier point of time and before the conclusion of its evidence. However, that cannot be the sole consideration while determining the application which seeks production of documents necessary for the determination of the lis. Applicability of the provisions contained in Order XI Rule 14 of the Code, especially when the Plaintiff claimed that it was in the custody of those documents may be debatable. With the deletion of Rule 17-A of Order XVIII of the Code, a party is precluded from leading further evidence, at any stage. However, the deletion of the said provision does not denude the Court of its inherent power to allow a party to lead evidence, which is necessary for the determination of the suit.

12. A useful reference can be made to a three Judge Bench judgment of the Supreme Court in the case of ***Salem Advocate Bar Association Vs Union of India***³. The observations of the Supreme Court in the case of ***Salem Association*** (supra) with regard to the impact of deletion of Sub-Rule (4) of Rule 2 and Rule 17-A of Order XVIII underscore the principle that, the Civil Courts inherent power to call for any witness or permit a party to adduce evidence at any stage, is not taken away. The observations in paragraphs 13 and 32 are material and hence extracted below :

3 (2005) 6 SCC 344.

“Additional Evidence

13. In *Salem Advocates Bar Assn.* case, it has been clarified that on deletion of Order XVIII Rule 17-A which provided for leading of additional evidence, the law existing before the introduction of the amendment, i.e., 1st July, 2002, would stand restored. The Rule was deleted by Amendment Act of 2002. Even before insertion of Order XVIII Rule 17-A, the Court had inbuilt power to permit parties to produce evidence not known to them earlier or which could not be produced in spite of due diligence. Order XVIII Rule 17-A did not create any new right but only clarified the position. Therefore, deletion of Order 18 Rule 17-A does not disentitle production of evidence at a later stage. On a party satisfying the Court that after exercise of due diligence that evidence was not within his knowledge or could not be produced at the time the party was leading evidence, the Court may permit leading of such evidence at a later stage on such terms as may appear to be just.

Order 18 Rule 2

32. Order 18 Rule 2(4) which was inserted by Act 104 of 1976 has been omitted by Act 46 of 1999. Under the said rule, the Court could direct or permit any party, to examine any party or any witness at any stage. The effect of deletion is the restoration of the *status quo ante*. This means that law that was prevalent prior to 1976 amendment, would govern. The principles as noticed hereinbefore in regard to deletion of

Order 18 Rule 17(a) would apply to the deletion of this provision as well. Even prior to insertion of Order 18 Rule 2(4), such a permission could be granted by the court in its discretion. The provision was inserted in 1976 by way of caution. The omission of Order 18 Rule 2(4) by the 1999 amendment does not take away the Court's inherent power to call for any witness at any stage either *suo motu* or on the prayer of a party invoking the inherent powers of the Court."

(emphasis supplied)

13. In the case at hand, the documents of which the production is sought by the Plaintiff are necessary for the determination of the real question in controversy between the parties. Having regard to the character of those documents, no prejudice is likely to be caused to the Defendant. At any rate, after the said documents are produced, the Defendant can be provided an opportunity to lead evidence.

14. I am, therefore, inclined to allow the Petitions and set aside the impugned orders.

15. Hence, the following order :

ORDER

- (i) The Writ Petitions stand allowed.
- (ii) The impugned orders stand quashed and set aside.
- (iii) The Applications preferred by the Petitioner stand allowed.

(iv) The Plaintiff is permitted to produce the documents.

(v) After the documents are produced, and, in the event, the Defendant denies and does not admit those documents in evidence, the parties be provided an opportunity to lead evidence.

(vi) In any event, the Defendant shall be at liberty to lead evidence after production of the documents.

(N.J.JAMADAR, J.)