

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10478 OF 2025**

Dynamic Logistics Pvt. Ltd. ... Petitioner

Vs.

Usha Vitthal Makar And Ors. ... Respondents

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signed by
MANGALTAI
JAYWANT
JADHAV
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Mr. Girish Godbole, Senior Advocate a/w Mr. Anshul Anjarlekar and
Ms. Sanika Athalye i/b M/s. Raval Shah and Co. for the Petitioner.

Mr. Abhinandan Vagyani a/w Padmanabh D. Pise a/w Sejal A.
Hariyan a/w Aaroh Kulkarni i/b P. Padmanabh & Associates for
Respondent Nos.1 to 5.

Mr. Atul Damle, Senior Advocate a/w Amod Ekhaspur i/b Abhijit A.
Devkhile for Respondent Nos. 6 & 7.

CORAM : GAURI GODSE, J.

DATED : 11th AUGUST 2025

ORDER:

1. This petition is filed by the original plaintiff to challenge the orders passed on applications at Exhibits 57 and 77 for permission to lead additional evidence in the miscellaneous civil appeal. The miscellaneous civil appeal is filed to challenge the rejection of the application for temporary injunction in a suit filed by the petitioner.

2. Considering the short issue involved in the petition, it is taken

up for final disposal. The respective counsels appearing for the respondents waive notice for final disposal of the petition.

3. The petitioner filed suit on 6th April 2023 for seeking declaration with regard to the agreements, sale deeds and compromise decree in respect of the suit property. The suit is filed on the ground that the petitioner is in possession of the suit property. Hence, an application for temporary injunction was filed restraining the defendants from distributing the plaintiff's possession over the suit property and further restraining the defendants from creating any third party rights in the suit property. This application was dismissed on 17th August 2023. Hence, the petitioner filed miscellaneous Civil Appeal No. 289 of 2023 in the district Court. Pending this appeal the petitioner filed applications for permission to produce additional evidence. The application at Exhibit 57 prayed for permitting the petitioner to produce on record order dated 27th February 2025 filed in RTS appeal and an inquiry report dated 30th December 2022 prepared by the Assistant Police Commissioner. In the application at Exhibit 77, the petitioner prayed for producing two orders dated 22nd May 2025 and passed by the deputy director of land records in two different proceedings in respect of the suit property.

4. It is contended on behalf of the petitioner that these orders would support the petitioner's contentions that the petitioner is in possession of the suit property. Hence, it was prayed to produce these copies of the orders pending the miscellaneous civil appeal in the district Court. These orders sought to be produced are passed after the injunction application is rejected by the trial Court and during the pendency of the miscellaneous appeal. Apart from the three orders sought to be produced, the inquiry report is prior to the date of filing of the suit. The applications were contested on merits and the district Court has rejected the applications. The applications were filed under Order 41 Rule 27 read with Section 151 of Civil Procedure Code.

5. Learned respective counsels appearing for the defendants (respondents) submit that since the orders sought to be relied upon are passed during the pendency of the appeal, the defendants would have no objection, if the documents are produced before the appeal Court. It is further submitted on behalf of the respondents that the inquiry report dated 30th December 2022 is prior to the date of filing of the suit; hence, the same cannot be relied upon in the pending appeal.

6. Learned senior counsel appearing for the petitioner submits

that the petitioner would be satisfied if the three orders sought to be produced are permitted to be relied upon in the pending appeal. So far as the inquiry report is concerned the petitioner be granted liberty to rely upon the same in the pending suit.

7. Learned senior counsel appearing for the respondents submitted that in Writ Petition No.4527 of 2025 filed by the respondents in this Court by order dated 9th April 2025, directions were issued to decide the pending miscellaneous civil appeal expeditiously and preferably within three months from the date of decision on the transfer application filed by the petitioner. The transfer application is now rejected. Hence, three months period would expire on 8th August 2025. It is further submitted that there is an order directing the parties to maintain status quo. Hence, directions issued for deciding the appeal within three months be extended and the appeal be directed to be decided within three months in terms of order dated 9th April 2025.

8. Since the parties agreed that the subsequent orders sought to be relied upon by the petitioner can be produced in the pending appeal and the petitioner can be permitted to rely upon the same, it would not be necessary to record any reasons on merits of the order passed rejecting the applications filed by the petitioner.

9. Since copies of the orders sought to be produced by the petitioner are passed during the pendency of the appeal, I see no reason why the petitioner should not be permitted to produce the same before the appeal Court and rely upon the same. I see no impediment in permitting the petitioner to do so. Even otherwise since the respondents have no objection, if the copies of the orders are produced and relied upon, this petition is allowed by passing the following order:

ORDER

- (i) The impugned orders dated 17th July 2025 passed by the learned District Judge-16, Pune below Exhibits 57 and 77 in Miscellaneous Civil Application No. 289 of 2023 are quashed and set aside.
- (ii) The application at Exhibit 57 is partly allowed and the petitioner is permitted to produce and rely upon the copy of the order referred in Clause 6(a) of the application at Exhibit 57.
- (iii) The application at Exhibit 77 is allowed by permitting the petitioner to produce and rely upon the copy of the orders referred to in Clause 6(a) and (b) of the application at Exhibit 77.
- (iv) The respondents are at liberty to file additional affidavit-in-reply, if found necessary.
- (v) All the rival contentions of the parties on merits of the

documents permitted to be relied upon are kept open to be decided in the pending appeal.

(vi) The petitioner would be at liberty to rely upon the document referred to in paragraph 6(b) of the application at Exhibit 57 in the pending suit in accordance with law. Rival contentions of the parties on the said document are also kept open.

(vii) The time to decide the Miscellaneous Civil Application No. 289 of 2023 granted by order dated 9th April 2025 is extended by three months from today.

9. Writ Petition is disposed of in the aforesaid terms.

(GAURI GODSE, J.)