

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 15508 OF 2025

Vasudeo Mahadeo Bhangre

..Petitioner

**Versus**

Vimal Shankar Mhatre & Ors

...Respondents

Mr. Chirag Balsara, with Yogesh Patil, Shirin Shaikh and Siddharth H,  
for Yash Legal, for the Petitioner.

Mr. Vishal Kanade, with Harsh Moorjani, Smruti Kanade and Jigisha  
Vadodaria, i/b Nagandhi Shah & Himayatuallah, for  
Respondent Nos. 4/1, 6 and 7.

**CORAM:** N. J. JAMADAR, J.

**DATE :** 26<sup>th</sup> NOVEMBER 2025

**ORAL ORDER:**

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 6<sup>th</sup> November 2025 whereby the learned District Judge-1, Raigad-Alibag was persuaded to reject an Application preferred by the Appellant seeking permission to adduce additional evidence under the provisions of Order XLI Rule 27 of the Code of Civil Procedure Code, 1908 ("the Code") at the stage of Appeal.
3. When the Petition was listed before the Court yesterday, the Court had requested the learned Counsel for the Respondent No.1 to take instructions as to whether the admissibility of few of the documents

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which *prima facie* appear to be public documents, can be considered by the Appellate Court at the stage of final decision of the Appeal, in view of the judgment of the Supreme Court in the case of **Union of India Vs Ibrahim Uddin & Anr.**<sup>1</sup>

4. Mr. Kanade, the learned Counsel for the Respondent Nos. 4/1, 6 and 7, the contesting Respondents, on instructions, submits that the documents at Items (b) and (c) being the copies of the Index-II may be permitted to be considered at the stage of final hearing of the Appeal. As regards the documents at Item (a) it was submitted that the said documents were in the custody of the Appellants since long and those documents cannot be termed as public documents.

5. Mr. Balsara, the learned Counsel for the Petitioner-Appellant, would submit that in addition to documents at Item No. (a), the document at Item (e), which is a certified copy of the Tahasildar's order in relation to the Mutation Entry No. 439 is also public document and, therefore, the documents at Items (a), (b), (c) and (e) be permitted to be considered by Appellate Court at the stage of final adjudication of the Appeal.

6. The legal position as regards the admissibility of the additional evidence at an appellate stage and, especially, the stage at which the Appellate Court ought to bestow consideration regarding the admissibility of the additional evidence is well-settled.

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1 (2012) 8 SCC 148.

7. In the case of **Ibrahim Uddin & Anr (Supra)**, the Supreme Court after adverting to the previous pronouncements, has expounded the stage of consideration as under:

“49. An application under Order 41 Rule 27 CPC is to be considered at the time of hearing of appeal on merits so as to find whether the documents and/or the evidence sought to be adduced have any relevance/bearing on the issues involved. The admissibility of additional evidence does not depend upon the relevancy to the issue on hand, or on the fact, whether the applicant had an opportunity for adducing such evidence at an earlier stage or not, but it depends upon whether or not the Appellate Court requires the evidence sought to be adduced to enable it to pronounce judgment or for any other substantial cause. The true test, therefore is, whether the Appellate Court is able to pronounce judgment on the materials before it without taking into consideration the additional evidence sought to be adduced. Such occasion would arise only if on examining the evidence as it stands the court comes to the conclusion that some inherent lacuna or defect becomes apparent to the Court. (Vide **Arjan Singh V Kartar Singh (AIR 1951 SC 193)** and **Natha Singh Vs Financial Commr., Taxation ((1976) 3 SCC 25)**).

... ..

52. Thus, from the above, it is crystal clear that application for taking additional evidence on record at an appellate stage, even if filed during the pendency of the appeal, is to be heard at the time of final hearing of the appeal at a stage when after

appreciating the evidence on record, the court reaches the conclusion that additional evidence was required to be taken on record in order to pronounce the judgment or for any other substantial cause. In case, application for taking additional evidence on record has been considered and allowed prior to the hearing of the appeal, the order being a product of total and complete non-application of mind, as to whether such evidence is required to be taken on record to pronounce the judgment or not, remains inconsequential/inexecutable and is liable to be ignored.”

(emphasis supplied)

8. In view of the aforesaid legal position, in the instant case, the admissibility of the documents by additional evidence ought to have been considered by the learned District Judge at the stage of final adjudication of the Appeal.

9. *Prima facie*, the documents at Items (a), (b), (c) and (e) appear to be public documents or records of private documents maintained by the public authorities.

10. Therefore, it would be appropriate to direct the learned District Judge to consider the admissibility of the documents at Items (a), (b), (c) and (e) by way of additional evidence, at the stage of final adjudication of the Appeal, in the light of the aforesaid enunciation of law.

11. It is, however, clarified that the issues of the admissibility of the documents and their relevancy for the determination of the facts in issue, have not been considered by this Court.

12. It would be open for the learned District Judge to consider the said aspects at the time of the final decision of the Appeal, in the event the learned District Judge finds that the aforesaid documents are required to be admitted by way of additional evidence

13. Petition disposed.

14. All contentions of all the parties are kept open for consideration.

[N. J. JAMADAR, J.]