



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.4732/2024

Subhash Nattuji Thakare
Aged about 64 years, Occupation -
Labourer, Residence at Thakare
Niwas, Near Radha Krushna Temple,
Prerana Colony, Radha Nagar,
Amravati District Amravati – 444 603

... PETITIONER

...VERSUS...

Vishnu Nattuji Thakare
Aged about 65 years,
Occupation – Retired Police
Officer, Residence at Thakare
Niwas, Near Radha Krushna
Temple, Prerana Colony, Radha
Nagar, Amravati District
Amravati – 444 603

...RESPONDENT

Shri Y.P. Kaslikar, Advocate for petitioner
Mrs S.W. Deshpande, Advocate for respondent

CORAM : SMT. M. S. JAWALKAR, J.
DATED : 17/03/2025

ORAL JUDGMENT

. Heard learned Counsel for petitioner/original
defendant and learned Counsel for respondent.

2. The present petition is filed challenging the order passed below Exhibit 81 filed by the defendant seeking the order for cancellation of permission to file documents on record alleged to be filed in contravention of Order VII Rule 14, Order VIII Rule 1A read with Order XIII Rule 1 of the Code of Civil Procedure and for order excluding his oral evidence in relation to the said documents.

3. It is contention of the petitioner that he applied on 28.03.2023 to produce documents relating to House bearing City Land Record No.512, Sheet No.5, Plot No.512 and agricultural land bearing land record No.689 admeasuring 1 H 74 R situated at Dhamangaon. There was direction given by the Court to produce the documents. The plaintiff has denied possession of the said document. It is contention of applicant that on

06.01.2024, during cross examination of defendant, along with list at Exhibit 76, the plaintiff has produced certain documents claiming to be mutation entry of above said house and agricultural land. It is contention of the defendant that the genuineness of the documents is raised by the defendant. However, the Court has granted permission to file such documents on record and also exhibited those documents.

4. The learned Trial Court considered the application and relevant provisions. As per Order VIII Rule 14(3) of the C.P.C., the documents which are required to be annexed to the plaint, that is not produced, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. Order XIII Rule 2(1) permits the Court to receive at any subsequent stage of the proceedings, the documents which should have been

produced in accordance with the requirement of Rule I unless, good cause is shown to the satisfaction of the Court for the non-production thereof.

5. The learned Trial Court rightly observed that though production of documents along with list at Exhibit 76 is allowed by this Court, but, till today leave for referring them in evidence is neither sought by plaintiff nor given by this Court. The defendant by way of this application below Exhibit 81 has prayed for exclusion of his oral evidence from record obtained in relation to said documents. However, it is pertinent to note that the evidence recorded does not reflect that documents produced along with list Exhibit 76 are referred to him during his cross examination nor there is any application by the plaintiff for correction in his oral evidence recorded by the learned Trial Court. Thus, there is no question to

exclusion of defendants oral evidence from record. The documents along with list Exhibit 76 not referred the defendants in cross examination nor they are admitted in evidence.

6. Therefore, in the peculiar facts of the matter, legal provisions, the effect of non- referring the said documents, rejection of application Exhibit 81 is correct and there is no perversity or error in the order passed by the learned Civil Judge Junior Division, Amravati. As such, there is no merit in the petition. Accordingly, the Writ Petition is dismissed. No orders as to the costs.

(SMT. M.S. JAWALKAR, J.)

R.S. Sahare