



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4775 OF 2024

Diwakar Madhavrao Dubbewar (Dead) through LR's
Abhishek Diwakar Dubbewar, Aged about 40 years, Occ:
Service, R/o G-202, Godrej Central, Shankar Nagar-1,
Shel Colony Road, Chembur East Mumbai-400071.

PETITIONER

VERSUS

Anil Madhavrao Dubbewar, Aged about 52 years,
Occ: Business, R/o Dubbewar Layout, Pusad,
Tq. Pusad, Dist. Yavatmal.

RESPONDENT

Shri K.S. Narwade and N.S. Shiralkar, counsel for the petitioner.
Ms Shaad F. Mirza, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 15, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner takes exception to the common order dated 22.04.2024 passed by the trial Court rejecting the two applications filed by the petitioner for filing additional documents.

3. The petitioner is the original plaintiff who has filed suit for declaration and permanent injunction in which the defendant has appeared and evidence had commenced. At the stage of evidence, the plaintiff filed two applications *vide* Exhibits 230 and 234 seeking permission to file additional documents on record which were resisted by the defendant alleging lack of specific reasons and by order dated 22.04.2024 the applications came to be rejected.

4. The primary contention of the learned counsel for the petitioner is, the documents sought to be filed by the plaintiff are necessary for deciding the actual controversy involved in the suit and denial of opportunity to file the documents would cause injustice.

5. The petition is strongly opposed by the counsel for the respondent who submitted that the suit was filed in the year 1999 and the applications to file additional documents is filed in 2023-2024 without mentioning any reasons and hence the same are rightly rejected by the trial Court. She also submitted that now the suit has reached the stage of final arguments and allowing the plaintiff to file additional documents at this stage would definitely cause serious prejudice to the rights of the defendant.

6. While considering the controversy involved in the suit, it has to be seen that the suit was filed on 17.08.1999 which is being contested by both the parties on merits. At the stage of cross-examination of defendant, the plaintiff has filed applications for permission to file additional documents. Pertinent to note, these documents were not filed before evidence of the plaintiff and attempting to file the documents during cross-examination of the defendant would deprive him of an opportunity to lead evidence with respect to those documents. Further, a perusal of application at Exhibit 230 shows that there are absolutely no reasons as to why the documents were not filed earlier, even though the parties have been contesting the suit for a period of about twenty five years. The applications did not mention any reasons to display due diligence on the part of plaintiff and the applications appear to be casual. The applications also do not mention the details of

the documents sought to be produced and their relevance or necessity for complete adjudication of the controversy involved in the suit.

7. In view of the fact that the documents were sought to be filed at the stage of cross-examination of the defendant, I am of the firm opinion that allowing such application would cause prejudice to the defendant since he would be deprived of an opportunity to conduct cross-examination with respect to the new documents. Further, considering the fact that now the suit has reached the stage of final arguments, allowing the plaintiff to file new documents would amount to reverting back to the stage of evidence. Undisputedly, the suit is pending since last more than twenty five years and the plaintiff has failed to furnish any reasons, much less due diligence for production of the said documents. Hence, the applications deserve to be rejected. A perusal of the impugned order shows that the trial Court has given due consideration to the factual and legal aspects and by a reasoned order, rejected the application.

8. In view of the above mentioned factual and legal aspects, no indulgence is warranted with the impugned order under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)