



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5405 OF 2024

WITH

WRIT PETITION NO. 5407 OF 2024

Narayan Barkaji Raibole ... PETITIONER

Versus

Deepak Shankarrao Saraf ... RESPONDENT

Mr. C. R. Kulkarni, Advocate for Petitioner in both the Petitions.

CORAM : SACHIN S. DESHMUKH, J.
DATE : JULY 28, 2025.

COMMON ORDER

. Heard.

2. The challenge is raised to the order dated 5/8/2024 rendered by the trial court below Exhibit-59 in Regular Civil Suit No. 128/2012, rejecting the application requesting to adduce secondary evidence. The Petitioner, who is Defendant in Regular Civil Suit No.92/2012 for permanent injunction, whereas the suit filed by the Petitioner i.e. Regular Civil Suit No.128/2012 is for specific performance.

3. An application was presented by the Petitioner seeking appropriate direction to the police authorities with an assertion that the agreement executed between the litigating side is in custody of the police officials. However, the said application was rejected by order dated 4/10/2015. The said order has attained finality for want of challenge at the instance of the Petitioner.

4. In the aforesaid backdrop, the application below Exhibit-59 is presented with an assertion that the document is in the custody of police, as such the secondary evidence may be permitted to be adduced in relation to the document, which is in custody of police. The learned trial court, considering the mandate of Section 65 of the Evidence Act, has turned down the request of the present Petitioner. Since application admittedly, does not satisfy the requirement as contemplated under Section 65 of the Indian Evidence Act. Resultantly, no error could be noted, as such both the Petitions stand dismissed. No costs.

(SACHIN S. DESHMUKH, J.)