



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

WRIT PETITION NO. 6364 OF 2024

Baliram Shyamrao Pise, Aged about 61 years,
Occ: Agriculturist, R/o Patwari Colony, Alasna Road,
Shegaon, Tq. Shegaon, District Buldana.

PETITIONER

VERSUS

1. Abdul Salam Abdul Aziz, Aged 67 years, Occ:Service,
R/o Purushottam Nagar, Khamgaon Road, Shegaon,
Tq. Shegaon, District : Buldana.
2. Santosh Shaligram Nile, Aged 45 years, Occ:Business,
R/o Mothi Umari, Fattepur Wadi, Akola,
Taluka and District Akola.

RESPONDENTS

Shri A.V. Bhide, counsel for the petitioner.
Shri M.R. Khan, counsel for the respondent no.1.
Shri S.S. Purwar with Shri N.R. Tekade, counsel for the respondent no.2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 16, 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 order dated 05.09.2024 passed by the trial Court rejecting the application for production of documents under Order XI Rule 14 of the Code of Civil Procedure, 1908.

3. The petitioner is the original defendant no.1 in the suit for specific performance of contract. In the suit, the defendant no.1 filed his elaborate written statement and the parties led evidence. At the stage of final arguments, the defendant no.1 filed application seeking production of document of a notarized agreement dated 05.02.2015, which application was resisted by the plaintiff and by order dated 05.09.2024, the application came to be rejected. This order is subjected to challenge by way of instant petition.

4. It is the petitioner's contention that the notarized document in the nature of agreement dated 05.02.2015 was executed in between the parties and the same has a bearing upon the controversy involved in the suit. The learned counsel for the petitioner submitted that there are pleadings about the document in the written statement of the defendant no.1 and in view of the evidence of the Notary based on the extract of the Notary Register, it became clear that the document dated 05.02.2015 was executed between the parties and therefore the same is required to be produced on record.

5. The learned counsel for the respondent no.1-plaintiff opposed the petition and submitted that the said document is not at all necessary for deciding the actual controversy involved in the suit. He submitted that the plaintiff has not relied upon the said document and the suit is for specific performance of agreement dated 05.12.2013. He further submitted that the application filed by the defendant no.1 at the stage of final arguments in the suit is an attempt to protract the litigation and the same deserved to be rejected.

6. While considering the controversy involved in the suit, it has to be seen that the petitioner's main contention is that apart from agreement dated 05.12.2013, the parties had executed another agreement dated 05.02.2015 which was notarized and even the deposition of the concerned Notary by name Manoj Navalkishor Mal disclosed that the parties had executed some document dated 05.02.2015. However, it is pertinent to note that there are no pleadings in the plaint about any such document,

neither the plaintiff has led any evidence in that regard. Only because the defendant no.1 has made some pleadings in his written statement, the insistence by the defendant no.1 to the plaintiff to produce the said document is unjustified. Even though the evidence of Notary is recorded and he has deposed about execution of some document, it is for the defendant no.1 to produce any such document in case he wants to rely on such document. The petitioner-defendant no.1 thus failed to make out any case for seeking direction to the plaintiff to produce document under Order XI Rule 14 of the Code of Civil Procedure, 1908. It has also to be noted that in case any such document existed and it is concluded that the plaintiff has deliberately withheld it, the consequences of adverse inference against him may be drawn. The arguments advanced by the counsel for the petitioner are thus not acceptable.

7. Having regard to the above mentioned factual and legal aspects no perversity is seen with the impugned order warranting indulgence under Article 227 of the Constitution of India. The writ petition deserves to be dismissed and the same is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)