



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

WRIT PETITION NO.2638/2025

Rukmini Solvex Pvt. Ltd. through Director .Vs. Rajkumar Motilal Shah (Dead)
Proprietor Raj and Raj Construction through LR's. and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. V. Sharma, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : MAY 9, 2025

Heard.

2. The petitioner – plaintiff is aggrieved by order passed by Trial Court permitting respondents-original defendant Nos.1(A) to 1(D) and respondent No.2 to produce documents after closure of evidence of petitioner and respondent Nos.3 and 4 (original defendant Nos.3 and 4). The suit has been filed in the year 2014. Written Statement by respondent Nos.1(A) to 1(D) and 2 was filed in the year 2023. Predecessor of 1(A) to 1(D) had filed written statements prior thereto. The documents sought to be produced are of the years 2006, 2007, 2008 and 2017.

4. Argument is that it is not the case of the answering respondents that these documents were not available with them when written statement was filed or when evidence was led. What has been said is that they expected respondent Nos.3 and 4 to file the same on the ground that respondent Nos.1 and 2 had filed notice to produce document calling upon respondent No.4-original defendant No.4 to produce entire correspondence between petitioner and respondent No.4.

5. The counsel submits that the documents sought to be produced were not the correspondence between the

petitioner and respondent No.4 but are tender documents for three different works. The other documents include the power of attorney and reports of the Executive Engineer.

6. Counsel for petitioner has relied upon Order XI of the Civil Procedure Code, 1908 and taking aid of Rules 7 and 10 thereof, argued that the answering respondents were duty-bound to submit list of documents and photocopies, through which were in their possession, control or custody along with written statement and further that production of documents subsequent thereto can only be permitted where a case is covered under Rules 7 (c) or 11, which is not the case here.

7. Despite such status, the Trial Court allowed the application on the ground that the document has been referred to by answering respondent in the written statement. Thus, merely because there is reference to the documents, the Trial Court allowed the application, which runs contrary to Order XI of the Civil Procedure Code, 1908.

8. Issue notice to the respondents, returnable on 11.06.2025.

9. In addition to regular mode of service, the petitioner is permitted to serve the respondents through speed post and file affidavit of service.

10. The document under question, if not exhibited, shall not be exhibited until next date.

11.x The petitioner shall comply with Practice Note No. 14 of the Bombay High Court Appellate Side Rules, 1960, particularly clause (5) thereof.

(Anil L. Pansare, J.)