IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO. 10232 OF 2025

Mirza Altaf Ali Baig Mirza Osman Ali Baig And Others

VERSUS

Jagan Rama Rathod And Others

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Mr.Narwadkar Mrigesh D. for the Petitioners.
Mr.Khutwad Manoj Ramdas for Respondent No.1.
Ms.Vaishali Chaudhari, AGP for the Respondent/State.

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 29.10.2026

PER COURT :

1. The Petitioners are challenging the order passed below Exhibit-18 in M.C.A. No. 25 of 2024, wherein the application filed by the Petitioners for production of additional evidence under Order 41 Rule 27 of the Code of Civil Procedure, 1908 ('**CPC'**) has been rejected by the Adhoc District Judge-3, Aurangabad, by order dated 27.06.2025.

2. Heard respective parties. Upon perusal of the order, the learned Adhoc District Judge-3 appears to have rejected the application of the Petitiones on the ground that it does not satisfy the conditions enumerated in Order 41 Rule 27 of the CPC for allowing the production of documents, since the Applicants are seeking production of documents that were not part of the proceeding while hearing Exhibit-5 application. Order 41 Rule 27 of the CPC permits the production of additional evidence upon satisfaction of two conditions as enumerated in Rule 27(A)(a) of the CPC. Even though the present Petitioners have not

produced the said documents during Exhibit-5 application, it is very much permissible if he satisfies conditions mentioned in 27(A)(a) of the CPC. The only condition is that the Petitioners have to demonstrate that in spite of due diligence, the evidence could not be produced and after the exercise of due diligence, the Petitioners have produced it at the time when the decree appealed against was passed. In the present case, the learned Judge has recorded that the Petitioners have not demonstrated due diligence, which is a material condition under Order 47 Rule 27 of the CPC.

3. Upon perusal of the application filed by the Applicants for production of additional evidence below Exhibit-18, the Applicants have categorically mentioned in Paragraph No.6 that the Applicants could not trace out the order dated 31.01.1967 and Kul Register dated 29.07.1966, as well as the certified copy of the Registered Purchase Deed No.1011 dated 29.12.1942, and it is also stated how the documents are relevant for deciding the Misc. Civil Application. Upon going through the averments made in Paragraph No.6, in my view, sufficient grounds for entertaining the application are made out by the Applicants under Order 41 Rule 27 of the CPC.

4. In view thereof, it would be appropriate to remand the matter back to the Adhoc District Judge-3, Aurangabad, to decide the application afresh, more particularly in the light of the averments made in Paragraph No.6 of the application below Exhibit-18.

5. With the aforementioned observations, the Writ Petition stands disposed off.

6. All the points and contentions of the respective parties are kept open to be decided while deciding the application below Exhibit-18.

[MANJUSHA DESHPANDE, J.]