**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**951 WRIT PETITION NO. 14025 OF 2024**

DNYANOBA RAMCHANDRA DUKRE AND OTHERS
*VERSUS*
VIDYA MAHESH SHINDE AND ANR
...
Mr. N. D. Kendre, Advocate for the Petitioners
Mr. G. J. Kore, Advocate for Respondent Nos.1 and 2
...

**CORAM : AJIT B. KADETHANKAR, J.**
**DATED : 1st October 2026**

**P.C. :-**

. Feeling aggrieved by the order dated 29.11.2024 passed by the learned Joint Civil Judge, Junior Division (Court No.9), Latur on an application at Exhibit 51 in Regular Civil Suit No.710 of 2021, the defendants are before this Court. Considering the short controversy involved in the matter, the petition is heard for final disposal at admission stage.

**2.** The sum and substance of the case is as below :

**a.** The present respondents filed the Regular Civil Suit No.710 of 2021 seeking partition and possession of the suit properties. The petitioners/original defendants caused their appearance and disputed the suit. As their defence, the

petitioners raised an objection that certain properties, particularly a plot out of Gat No.108, Village Arvi Tq. and Dist. Latur and 50 R land in Gat No.575 are their properties and cannot be subjected to partition.

**b.** Subsequently, issues came to be framed and the parties offered themselves for evidence. After completion of evidence, the matter was posted for final arguments. After the plaintiffs completed their final arguments on 14.10.2024, an application below Exhibit 49 came to be filed by the petitioners/original defendants on 04.11.2024. By the said application, permission was sought for production of certain documents without recording any objection of the plaintiffs. On the same day, the Trial Court allowed the said application.

**c.** Two days thereafter, an application at Exhibit 51 came to be filed by the petitioners/original defendants. By the said application, the defendants prayed for recalling the order of closing their evidence and for permitting them to examine the witnesses to prove the documents which were allowed to be produced on application Exhibit 49.

**d.** Although the petitioners did not place on record the reply filed by the plaintiffs opposing the application, the Trial

Court recorded the objection of the plaintiffs and rejected the said application. While passing the order dated 29.11.2024, the Trial Court observed that there is no reference to the documents sought to be proved in the written statement, and hence it would not be of any avail to allow the defendants to prove such documents. The Trial Court further observed that looking to the nature of the documents, the same appear to be irrelevant to the controversy. The Trial Court further observed that the application was apparently filed to delay the suit proceedings and hence taking recourse to Order XIII Rule 3 of the Code of Civil Procedure, proceeded to reject the application.

**e.** As against the order dated 29.11.2024, the petitioners/original defendants are before this Court.

**3.** I have extensively heard both the learned Advocates for the respective parties.

**4.** Mr. N. D. Kendre, learned Advocate for the petitioners submits that the documents which are sought to be proved are of vital nature and would go to the root of the controversy between the parties. He would submit that in the written statement reference has been made to certain transactions and

hence, the Trial Court has erred in observing that the documents are neither relevant nor referred to in the written statement. With this, he prays for allowing the petition.

**5.** Mr. G. J. Kore, learned Advocate for the respondents would support the findings rendered by the Trial Court. It is further submitted that the documents sought to be proved by the petitioners are coming from their own custody and there is no reason as to why the same were produced at such a belated stage. He further submits that the Trial Court has rightly observed that the application was merely an attempt to delay the suit proceedings. With this, he prays for dismissal of the petition.

**6.** Apparently, as could be seen from the copies of the documents tendered across the bar by Mr. Kendre to this Court, for which the applications at Exhibits 49 and 51 are filed, all these documents are coming from the custody of the petitioners themselves.

**7.** Though the Trial Court has allowed the application at Exhibit 49 by a single-line order without recording any reason which ought to have been recorded, I find that none of these documents are referred to by the defendants in their

pleadings. That way, the Trial Court is justified in recording its observation in paragraph No.4 that those documents are not referred to in the written statement by the defendants.

**8.** Certainly, if a party demonstrates justifiable reasons, the Trial Court may exercise its discretion in allowing such party to produce documents at a belated stage. Such discretion may also justify permitting such party to reopen its evidence. However, the conduct of the party and the nature of the documents play a vital role while exercising such discretion by the Trial Court.

**9.** In the case in hand as observed above, the documents which are sought to be proved are coming from the custody of the defendants themselves. By no stretch of imagination, it could be accepted that the defendants were not aware of the existence of the documents. Nor any case is made out as to what prevented the defendants despite exercise of due diligence from obtaining such documents or proving the same in the suit proceedings.

**10.** The conduct of the petitioners cannot be overlooked. It is only after the suit was finally argued by the plaintiffs that the petitioners filed these two applications. It is also not the

case of the petitioners that the documents sought to be produced and proved were discovered at a later stage and were not within their knowledge even after exercise of due diligence.

**11.** When a party seeks to produce and prove certain documents at such a belated stage, the responsibility of such party is on the higher side. As could be seen from the text of the application, nowhere have the petitioners explained the circumstances as to how they came in possession of the documents and more importantly as to why such documents are necessary to be proved in the suit. The applications are as casual as they could be.

**12.** In view of the above, the application at Exhibit 51 was nothing but an abuse of the process in the circumstances of the case. I find that the case does not call for exercise of jurisdiction under Article 227 of the Constitution of India.

**13.** The Writ Petition stands dismissed.

( AJIT B. KADETHANKAR, J. )

PRW