



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

WRIT PETITION NO. 8252 OF 2024

Anil Babulal Katariya

VERSUS

Rajendra Laxman Dhake And Others

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Mr. N. B. Narwade, Advocate for the Petitioner

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CORAM : AJIT B. KADETHANKAR, J.

DATED : 25TH MARCH, 2026

FINAL ORDER :-

. Notices were issued to the respondents, but nobody has caused appearance for the respondents.

2. Mr. N. B. Narwade, learned Counsel for the petitioner would submit that in the trial of Regular Civil Suit no.116 of 2012, the petitioner wanted to rely upon the original documents which are part of the Summery Criminal Case No.122 of 2007 to 127 of 2007 filed under Section 138 of the Negotiable Instruments Act. He would submit that the original documents pertaining to those cases were called by the Civil Court and those are in the custody of the Civil Court. He submits that the primary evidence was produced for the inspection of the Court. He further submits that however with

an apprehension that the Trial Court will not read those documents as evidence in the trial, he sought permission to produce secondary evidence in respect of the said documents.

3. The learned Joint Civil Judge, Senior Division, Ahmednagar vide its order dated 05.11.2022 has rejected the said application.

4. Mr. N. B. Narwade, learned Counsel further submits that the original documents, the secondary evidence of which the petitioner wants to rely upon were called in the Civil Court at the behest of the petitioner, and application was filed after hearing all the parties. The Trial Court has allowed the application. He would further submit that the action would not have arisen for the petitioner to file the present application if the Trial Court reads the original documents produced by the petitioner for inspection of the Court as primary evidence.

5. The Trial Court at paragraph no.5 has observed that the primary evidence was produced for the inspection of the Court and it is a matter of fact that the petitioner did not make out any ground as specified under Section 65 for leading secondary evidence. Once the primary evidence is adduced,

there is no question of leading secondary evidence in the matter. The relevant observations of the Civil Court are reproduced as follows:

The record reveals that by order dated 29/07/2019 passed below Exh.203 the original documents from the record and proceedings of S.C.C. No.122/2007 to 127/2007, were called for inspection of the Court in the matter. As such, the primary evidence was produced for the inspection of the Court. As a matter of fact the plaintiff did not make out any ground specified in Sec.65 for leading secondary evidence. Once the primary evidence is available before the Court, there is no question of leading secondary evidence in the matter.

6. As such, the apprehension of the petitioner is already answered by the learned Civil Judge, Senior Division whereby it is observed that the primary evidence is available before the said Court.

7. In view of this, there is nothing to prevent the Trial Court to read those documents in evidence. Writ Petition stands disposed of.

(AJIT B. KADETHANKAR, J.)