



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9440 OF 2025

Rajendra Avchit Suryawanshi

VERSUS

Govind Kautik Kolte

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Mr. G. V. Wani, Advocate for the Petitioner

Mr. S. B. Yawalkar, Advocate for Respondent

CORAM : S. G. CHAPALGAONKAR, J

DATE : APRIL 28, 2026

PC:

1. The present Writ Petition takes exception to order dated 09.07.2025 passed below Exhibit 116 in RCS No. 358/2013 whereby Petitioner's application seeking issuance of witness summons to Shop Inspector, Jalgaon, Municipal Corporation, Jalgaon, Maharashtra State Electricity Board, Jalgaon and Sub-Registrar, Jalgaon has been rejected.

2. The Petitioner is Defendant in RCS No. 358/2013 pending before learned Civil Judge, Junior Division, Jalgaon. The suit is filed by Respondent seeking decree of possession on open space and recovery of rent and mesne profit. The Petitioner filed his written statement and in paragraph 3 specifically admitted that Petitioner has constructed shop on open space with permission of Respondent/Plaintiff. In this backdrop, Petitioner filed an application for issuance of witness summons, which is rejected by Trial Court observing that examination of those witnesses would be irrelevant and not necessary for deciding issues framed in

trial.

3. Apparently, considering nature of pleadings in plaint and written statement, it is discernible that suit is instituted for recovery of open space that was leased by Respondent to Petitioner. It appears that Petitioner has constructed a shed and running a Barber shop on said property. Further, written statement filed by Petitioner depicts that no objection as to jurisdiction of Civil Court to deal with suit has been pressed into service. Apparently, suit would be governed by Section 106 of Transfer of Property Act. Looking to nature of dispute, Petitioner need not prove whether suit property was occupied by him for purpose of running a Barber shop or not. From application of Petitioner seeking issuance of witness summons nothing is discernible as to why Petitioner wants to examine those witnesses. The Trial Court observed in impugned order that there is no pleading regarding the documents which defendant wants to prove through witnesses, particularly mentioned in present application.

4. Mr. Yawalkar, learned Advocate appearing for Respondent, rightly invited attention of this Court to order dated 29.10.2015 passed below Exhibit 75 whereby similar prayer of Petitioners was rejected.

5. In that view of matter, this Court finds no merit in Writ Petition. Hence, Writ Petition stands rejected.

(S. G. CHAPALGAONKAR, J.)

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