IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

62 WRIT PETITION NO. 4810 OF 2026

VIJAY SHIVMURTTI KHANNA SINCE DEC. THR. LRS. AND ORS.
VERSUS
GANPATRAO VITTHAL DONGARE AND ORS.
...
Advocate for Petitioner : Mr. Datta H. Powar a/w Mr. Abhijeet B. Desai

CORAM : SHAILESH P. BRAHME, J.

DATE : 01.10.2026

PER COURT :

Heard learned counsel Mr. Desai for the petitioners.

2. The petition is directed against the orders passed on 13.01.2026 below Exh. 94 and on 20.03.2026 below Exh. 95 in Regular Civil Suit No. 44/2012.

3. Learned counsel Mr. Desai appearing for the petitioners submits that considering the defence of the petitioners that there was absolutely no legal necessity for alienating the suit land, the witness summons is required to be issued. It is submitted that the petitioners were well of. They had independent sources of income and the so-called agreement purported to have been issued in favour of respondent-plaintiff is bogus and has been issued by exerting undue influence. It is further submitted that the oral and documentary evidence likely to be produced by the petitioners may not have the sanctity and therefore if the papers are called for from the offices mentioned in the applications that would help in deciding the controversy involved in the matter. It is further submitted that there is foundation for claiming summons for the witness and the documents.

4. Respondent no. 1 has filed Regular Civil Suit No. 44/2012 for specific performance of contract founded on agreement to sale executed on 06.03.2010. It is informed that the evidence of the plaintiff is over and the evidence of the petitioners defendants would commence. The petitioner-deceased Vijay Shivmurti Khanna was in military services and his brother, who is defendant no. 1 was in service of the Gadhinglaj Urban Cooperative Bank. The daughter of the petitioner Suprya had taken admission in a medical college for M.B.B.S. in the year 2004.

5. I have gone through the written statement and specific defence that there was no legal necessity. The employment of the deceased petitioner as well as defendant no. 2 Ramesh can be proved by adducing evidence and producing documents on record. It is not the case of the petitioners that it is impossibility to show that they were in services and had independent source of income. It further reveals that the admission of the daughter to medical college can also be proved.

6. The heirs of deceased petitioner and Ramesh can lead evidence before the Court. The issuance of the summons for witness and production of the documents is not required. The suit is of 2012, which needs to be concluded. It is not demonstrated as to how the reliable evidence to disclose defence raised in the written statement cannot be adduced. I do not find any perversity or patent illegality in the impugned order.

7. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

mkd/-