

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

WRIT PETITION NO. 6210 OF 2024

INDUMATI MALLAPPA AGALGAVE AND OTHERS
VERSUS
SMT. KAMAL JANGONDA PATIL AND OTHERS

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Advocate for Petitioners : Mr. Akshay Kulkarni
Advocate for Respondents : Ms. Sadhana Suhas Datar

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 12-03-2026

PER COURT:-

1. The Petitioners/plaintiffs instituted Special Civil Suit No.97 of 2017 against the respondents/defendants seeking declaration and injunction in respect of the suit property.
2. After the issues were framed by the trial court, the plaintiffs filed two applications at Exhibit-93 and Exhibit-95 seeking leave to deliver interrogatories and for production of documents from the custody of defendants.
3. The Trial Court, after considering the submissions advanced by the learned counsel for both the sides, rejected the applications and passed the orders which are under challenge in the present petition. Being aggrieved thereby, the petitioners have preferred present petition under Article 227 of the Constitution of India.

4. Learned counsel appearing for the petitioners submits that the trial Court has erred while passing the orders under challenge and that the same are in violation of the principles of natural justice. It is further submitted that the trial court has wrongly cast the burden of proving the information sought from the defendants upon the plaintiffs. According to the Petitioners, since the defendants claim title over the suit property, the onus lies upon them to establish the same. It is, therefore, contended that the documents and information sought by the plaintiffs are necessary for the proper adjudication of the suit. Hence, it is prayed that the applications be allowed.

5. On the other hand, the learned counsel appearing for the respondents/defendants has supported the orders under challenge and submitted that the present proceedings have been initiated which is nothing but abuse of process of law and for ulterior motive.

6. Having heard the learned counsel appearing for the respective parties and upon perusal of the record made available, it appears that the issues have already been framed by the trial court and no challenge has been raised by the plaintiffs against the same.

7. Once the issues are framed in a civil suit, the trial court has already delineated the controversy between the parties and

indicated the respective burden of proof through the said issues. In such circumstances, a subsequent attempt by the plaintiffs to administer interrogatories calling upon the defendants to disclose particulars or produce material to establish their title over the suit property would, in effect, amount to shifting the burden of proof already cast upon the plaintiffs by the Court.

8. It is a settled position of law that interrogatories are not intended to enable a party to compel the adversary to prove his case or to supply evidence which the applicant himself is otherwise required to prove.

9. Furthermore, the trial court has recorded that the details primarily sought for by the plaintiffs are matters of public record and could easily be obtained. Thus, compelling the defendants to produce the same on record would essentially amount to shifting the burden of proof which the plaintiffs themselves are required to discharge and dispel.

10. In view of the aforesaid discussion, no error can be said to have been committed by the trial court in passing the orders under challenge.

11. Accordingly, the writ petition stands dismissed.

12. No order as to costs.

[SACHIN S. DESHMUKH]
JUDGE

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