

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 388 OF 2026

Anil N Bugde

..Petitioner

Versus

Ramchandra B Yadav and Ors

...Respondents

Dr Uday P Warunjikar, with Anil Bugde, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE : 20th JANUARY 2026

ORDER:

1. Heard Dr. Warunjikar, the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 17th October 2025, whereby the witness who is an official of CIDCO (D2) was discharged and a further order dated 16th December 2025, whereby an Application preferred by the Petitioner to recall and re-summon the said witness came to be rejected by the learned Civil Judge, Senior Division, Belapur, Navi Mumbai.
3. The Petitioner, who is the practicing Advocate, has instituted a Suit for specific performance of an oral Agreement dated 13th February 2007 made by the Defendant No.1 to sell Flat No. B-3/12/14, Sector-3, Vashi, Navi Mumbai, in the year 2009. The Plaintiff seems to have examined six witnesses.

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4. The record indicates that various Applications were filed in the said Suit seeking diverse reliefs. In the recent past, the proceeding reached this Court thrice. On two occasions, the learned PDJ had rejected the Applications seeking transfer of the Suit from the Court of learned Civil Judge seized with the said Suit. By an order dated 13th March 2025, Writ Petition No. 3312 of 2025 was disposed by this Court with a request to the learned Judge to consider grant of reasonable accommodation to the parties where a justifiable cause was made out.

5. Writ Petition No. 16881 of 2025 was withdrawn by the Petitioner when this Court expressed its disinclination to entertain the Petition assailing the order passed by the learned PDJ on 1st December 2025 rejecting the Application for transfer.

6. In another Writ Petition No. 11960 of 2025, this Court, directed the trial Court to expedite the hearing of both the suits, i.e. suit instituted by the Petitioner and another Suit filed by the Respondent No.2 therein, i.e., SCS No. 1408 of 2023. The parties were requested by this Court to adhere to the decorum of the Court while conducting the proceeding before the trial Court.

7. From perusal of the record, it becomes evident that a number of applications have been filed before the trial Court, which have impeded the expeditious conclusion of the Suit, which is awaiting adjudication for more than 15 years.

8. The Petitioner filed an Application to summon the officials of CIDCO (D2). In response to the summons, it seems, Mr. Rajesh Dhotre, appeared before the Court and produced the documents. The said witness, as is evident from orders passed by the trial Court, regularly appeared before the trial Court. The Petitioner filed an Application to impound a document, i.e., the permission letter for transfer of the suit premises by Defendant No.1 to Defendant No.3, at Sr. No. 10 in the list Exhibit 173A, produced by Mr. Rajesh Dhotre.

9. By an order dated 17th October 2025, the learned Civil Judge rejected the said Application. It was *inter alia* observed that the documents produced by the witness were on record. Whether the said document was forged and fabricated would be determined at the trial. Thus, at that stage, there was no question of impounding the said document.

10. The learned Civil Judge further recorded that the Petitioner-Plaintiff failed to examine the said witness though the said witness was present before the Court on multiple occasions and despite ample and sufficient opportunities having been given to the Petitioner to examine the said witness. Since the witness was summoned to produce the documents and, accordingly, the documents were produced, the learned Judge considered it appropriate to discharge the said witness and directed the Plaintiff to lead further evidence.

11. Dr. Warunjikar, the learned Counsel for the Petitioner, submitted that while passing an order on an Application for impounding the document which appeared to be forged and fabricated, the learned Judge could not have discharged the witness who had produced the said document. Therefore, the Petitioner had filed Applications seeking permission to examine the said witness. By an order dated 12th November 2025, the first Application (Exhibit 183) was rejected by the learned Civil Judge taking an unsustainable view that, in the event Defendant No.2 adduces evidence, the Plaintiff will be at liberty to cross-examine witnesses. Thus, the Plaintiff was constrained to file an Application to recall and re-summon the said witness for examination. By the impugned order dated 16th December 2025, the learned Civil Judge rejected the said Application ascribing identical reasons. As the Plaintiff's right to examine the witness has been unjustifiably foreclosed, the Plaintiff is constrained to again approach this Court, submitted Mr. Warunjikar.

12. This Court has referred to the developments in the trial and the multiple proceedings before this Court, on purpose. In the view of this Court, the nature of the Suit, deserves to be kept in view while appreciating the challenge to the procedural orders, in exercise of this Court's supervisory jurisdiction. The Suit is for specific performance of an alleged oral Agreement for sale. The issues that arise for adjudication

in a suit for specific performance need not be spelled out. The scope of a suit for specific performance of the contract cannot be unjustifiably expanded to adopt a roving enquiry into the affairs of the statutory authority and its officials. The justifiability of the various Applications preferred by the Petitioner for diverse reliefs including the prayer for impounding of the document which was allegedly forged and fabricated, was required to be appreciated through the aforesaid prism. The learned Civil Judge was thus fully justified in declining to impound one of the documents produced by an official of Defendant No.2.

13. The thrust of the submission of Dr. Warunjikar was that, while rejecting the Application for impounding the document the Court could not have discharged the witness who produced the documents.

14. The learned Civil Judge has recorded in clear and explicit terms that despite ample and sufficient opportunity and inspite of the Plaintiff having been specifically asked to examine the said witness, the Plaintiff did not examine the said witness. It was further recorded that the said witness was summoned to produce the documents.

15. In view of the provisions of Order 16 Rule 6 of the Code of Civil Procedure, 1908, if any person is summoned merely to produce a document, he shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

16. Even otherwise, when the trial Court records a positive finding that, despite sufficient opportunity, a party has failed to examine a witness, though present in Court, and, thus, it was constrained to discharge the witness, such an order is not amenable to interference in exercise of supervisory jurisdiction.

17. Not only the trial Court but even the learned PDJ, while declining the prayer to transfer the suit, has observed that the Plaintiff-Petitioner was interested in prolonging the matter, since he has been in possession of the suit property.

18. Dr. Warunjikar made a valiant attempt to dispel the impression entertained by the trial Court and expressed by the learned PDJ. I am afraid, in the totality of the circumstances, such an impression cannot be said to be unfounded. This Court refrains from making further observations on the conduct of the proceedings before the trial Court, lest the Petitioner may be prejudiced in prosecuting his cause.

19. Suffice to observe that, in the backdrop of the facts which emerge from record, the impugned orders do not suffer from any legal infirmity.

20. Resultantly, the Petition stands dismissed.

[N. J. JAMADAR, J.]