



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5331 OF 2025

Kirti d/o Rambhau Makwane

Vs.

Rakesh s/o Rambhau Makwane and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Kushal Jain, Advocate for petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 09.02.2026

Heard learned counsel for the petitioner.

2. Nobody appears for the respondents, though served.

3. The petitioner's challenge is to the orders dated 17.10.2024 and 19.10.2024 passed by the trial Court on applications at Exhibit 48 and Exhibit 45, respectively, in Special Civil Suit No.57/2020.

4. The learned counsel for the petitioner submits that the petitioner is the original plaintiff in the suit filed under Section 6 of the Specific Relief Act, in which, at the stage of evidence, the plaintiff proposed to file certain documents and therefore, filed applications at Exhibit 45 and Exhibit 48. The application at Exhibit 48 is rejected

by order dated 17.10.2024 and the application at Exhibit 45 is partly allowed, permitting the petitioner to file only a few of the documents.

5. The learned counsel for the petitioner submits that the documents sought to be produced are all relevant for deciding the controversy involved in the suit and the petitioner wants to rely on those documents to establish the fact of his earlier possession. He also submits that the plaintiff has already filed copies of all those documents before the trial Court and, by applications at Exhibit 48 and Exhibit 45 wanted to file the original documents on record. He therefore submits that the documents are relevant and the plaintiff needs to be afforded an opportunity to produce the documents.

6. In response to the notice issued in this petition, nobody has appeared on behalf of the respondents, although they are served. By order dated 03.02.2026, observing that the respondents have not appeared despite service, the matter was adjourned for today to grant them an opportunity to present their case. However, even today, nobody appears on behalf of the respondents. As such, the contentions canvassed on behalf of the petitioner remain uncontroverted.

7. Perusal of the impugned order shows that the Court has refused permission to file the documents on record by observing that the documents are not necessary and that there is no need to permit the plaintiff to file the documents again. It is to be noted that the plaintiff desires to file the original documents on record for the purpose of leading evidence. Needless to state, the defendants in the suit are entitled to conduct cross-examination, if the plaintiff desires to rely upon those documents, and as such, no prejudice would be caused to the defendants if the plaintiff is permitted to place the documents on record.

8. Having regard to the over all controversy involved in the petition and particularly, having regard to the suit filed by the plaintiff being under Section 6 of the Specific Relief Act, I do not find any impediment to allow the plaintiff to place on record the documents, on which, he wants to rely.

9. Perusal of the impugned order shows that the Court has refused the permission only on the pretext that there is no need to file the documents again. However, considering the fact that the plaintiff wants to file the original documents on record, I am of the opinion that permission needs to be granted to the petitioner and that the applications filed vide Exhibit 45 and Exhibit 48 deserves to be allowed. Hence, I pass the following the order :

ORDER

- (i) Writ Petition is allowed.
- (ii) The order dated 17.10.2024 passed on application at Exhibit 48 in Special Civil Suit No.57/2020 is hereby quashed and set aside.
- (iii) The order dated 19.10.2024 passed on application at Exhibit 45 in Special Civil Suit No.57/2020 is also hereby quashed and set aside.
- (v) The applications filed by the petitioners/plaintiffs vide Exhibit 45 and Exhibit 48 in Special Civil Suit No.57/2020 are allowed.

10. Writ petition is accordingly disposed of.

(Prafulla S. Khubalkar, J.)