

**ORDER BELOW EXH.15**

[Passed on 18.02.2025]

1. This is an application filed by the plaintiff for discovery of document under order 11 rule 12 of C.P.C. Perused the application and say filed by the Ld. Counsel for the defendant at Exh. 16.

2. The plaintiff contended that she has filed the present suit for recovery of amount due from the defendant. It is the case of the plaintiff that she has given the amount of Rs. 1,90,000/- to the defendant when he had demanded the same. The defendant denied to give money to the plaintiff when plaintiff demanded it, on the ground that the said amount is set off against the transaction allegedly entered by him with the husband of the plaintiff. The plaintiff further submitted that the defendant has appeared in the matter and filed his written statement wherein the defendant has pleaded and alleged that plaintiff's husband came to the defendant on 02.04.2021 and purchased 40 quintal Chana at the rate 5050/- per quintal from firm of the defendant called Diya Traders. Thus, total amount of Rs. 2,02,000/- due from the husband of the plaintiff is unpaid and husband of the plaintiff paid Rs. 12,000/- in cash to the defendant and remaining Rs. 1,90,000/- is settled from the outstanding amount due from the defendant towards the plaintiff. In the present matter the issue has been framed and this matter was fixed for the evidence of the plaintiff. It is necessary for the plaintiff to make discovery of the documents which are or

have been in possession or in power of the defendant relating to the transaction as alleged by the defendant in his written statement. The defendant has not filed any document with written statement in respect of the transaction which was allegedly taken place between the defendant and husband of the plaintiff. It is a settled law that documents has to be filed at the time of filling the written statement. Therefore, this court directed the defendant to make a discovery on oath of the documents which have been in possession or power of the defendant. Hence, plaintiff prayed for allowing the application by directing the defendant to make the discovery of the documents in respect of the transaction pleaded by defendant in his written statement.

3. The defendant strongly opposed the application and submitted that plaintiff in the instant application had not mentioned about the specific documents. This court has framed the issue on the basis of the pleading of the plaintiff in plaint and written statement. Plaintiff has to prove his case as per the story of her plaint and issue framed in the instant suit. The defendant will prove his case during the course of evidence. Plaintiff cannot force the defendant to make a discovery of the documents. Hence, Ld. Counsel for the defendant prayed for rejecting the application.

4. Heard Ld. Counsel for the plaintiff and Ld. Counsel for the defendant.

5. It is revealed from perusal of record that plaintiff has filed the present suit for recovery of amount due and

other ancillary relief. It is a well settled that the plaintiff in the suit is Dominus litis which means that plaintiff has to prove his case on his own leg. Although defendant averred in his written statement that the transaction took place between him and husband of the plaintiff by which the amount due from the defendant is set off due from the husband of the plaintiff towards the defendant. Defendant neither stated that he is in a possession of the documents in respect of alleged transaction nor he denied that. The onus is on the plaintiff to prove his case that the amount of Rs. 1,90,000/- is due from the defendant. The plaintiff cannot take the plea that defendant had not filed the documents in respect of the contention made in the written statement. The plaintiff cannot prove his case with the help of the court by seeking direction to the defendant to file the documents. Therefore, this application is not tenable in the light of the facts and circumstances of this case. Moreover, the documents sought by the plaintiff is not pertaining to the transaction between the defendant and the plaintiff which was averred in the plaint. In view of above reason I am not inclined to allow this application and proceed to pass following order.

**ORDER**

Application stands rejected.

**[ N. D. Meshram]**

Civil Judge Jr. Dn. Shegaon,  
Dist. Buldana.

Date : 18.02.2025.

I, *P. K. Ingle*, Stenographer of C.J.J.D. & J.M.F.C. Court No.1, Shegaon affirm that the contents of this P.D.F. file order is correct word to word as per the Original Order.