

Order passed below Exh. 97 in R.C.S. No. 308/2001
Gorakhnath Vs Municipal Council Gangapur & another

01. The defendant No. 1 has filed this application for production of document and submitted that suit is kept for evidence of defendant No. 1 and witness is present. Defendant No. 1 is producing some important document which are necessary for the just decision of the suit and hence prayed to allow the application.

02. The plaintiff filed say and submitted that documents are in custody of defendant No. 1 since beginning, but till today they were not produced. No any word is uttered why the same were not produced earlier and the suit is for cross-examination of defendant No. 1. Other documents, except copy of newspaper, are photocopies and if production is allowed, plaintiff will be prejudiced and therefore plaintiff prayed to reject the application.

03. Heard learned Advocate Shri. V. S. Manorkar for the defendant No. 1 and learned Advocate Shri. B. R. Rajput for the plaintiff.

04. It is a matter of record that suit is of the year 2001 and defendant No. 1 filed his written statement on 09.04.2002 below Exh. 39. The suit is for cross-examination of defendant No. 1's witness and at this stage, defendant No. 1 seeks production of publication in 'Daily Tarun Bharat', dated 20.04.2001 calling for public auction and agreement executed by defendant No. 2 in favour of defendant No. 1 in respect of Gala Nos. 7 & 8.

05. The present suit is filed by plaintiff against defendant Nos. 1 and 2 for perpetual injunction and direction to defendant to issue

allotment letter in his name in respect of shop bounded as given in the plaint. Main dispute between plaintiff and defendants were that plaintiff is claiming that he was having tin shed in front of Z.P. High School which was demolished and defendant No. 1 constructed Galas, wherein it was promised to him that one Gala will be allotted to him, but the same is not allotted to him and it was allotted to defendant No. 2. On going through written statement of defendant No. 1, in their additional written statement, defendant No. 1 specifically submitted that it was issued in public notice in 'Daily Tarun Bharat' and it was public auction and defendant No. 2 was allotted 2 Galas, wherein he executed agreement in favour of defendant No. 1. Therefore there is evidence/reference in written statement of defendant No. 1 about said document and therefore plaintiff is not taken by surprise by production of said document. However, defendant No. 1 ought to have produce these documents at the earlier stage as they were in possession of it. Therefore in view of dispute between the parties with regards to Galas in shopping complex of defendant No. 1 and documents did pertains to shopping complex and these documents are necessary for just decision of the suit. In view of long delay of defendant No. 1, defendant No. 1 should compensate plaintiff in terms of cost. Hence, I pass the following order.

ORDER

- 1) The application is allowed.
- 2) The only production of documents is allowed.
- 3) The defendant No. 1 to pay cost of Rs. 2,000/- to the plaintiff.

Date :- 10th July, 2017.

Sd/-
(Ajay A. Bhatewara)
Civil Judge (Junior Division),
Gangapur

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	:	Akshay R. Kulkarni.
Court	:	Civil Judge (J.D.), Gangapur.
Order Date	:	10.07.2017.
Order signed by the Presiding Officer on	:	18.07.2017.
Order uploaded on	:	18.07.2017.