


MHRG170006082022	ORDER BELOW EXH. 23 IN COMMERCIAL SUIT NO.03/2022
	Bhargav Ramdas Thakur & Ors. Vs. Gopinath Ramdas Gharat & Ors. CNR NO. MHRG170006082022

1. By this application, the plaintiff has prayed to return the documents filed by the defendants along with its written statement.
2. Learned advocate Mr. Ajit Karvande for the plaintiff has submitted that the defendant at the time of filing counter claim did not seek permission of the Court for production of the documents. According to him, in view of mandatory provision incorporated under Order XI Rule 5 of the Civil Procedure Code, such documents cannot be allowed to be placed before the Court, without showing reasons. Thus, he would submit that, the documents which have been placed on record by defendants are required to be returned to it.
3. In support of the submissions learned advocate has placed reliance upon the judgments of Hon'ble Supreme Court in the case of *Sudhir Kumar Vs. Vinay Kumar G. B., MANU/SC/0650/2021* and *Hon'ble High Court in the case of Edelweiss Special Opportunities Fund Vs. Future Corporate Resources Pvt. Ltd., MANU/MH/4763/2023.*
4. As against this, learned advocate Mr. S. Y. Bartakke for the

defendant has submitted that the defendant had placed on record the documents along with Exh.15 and that same was allowed by my learned predecessor. He would further submit that, defendant has sought permission of the Court and that therefore it can be said to be in consonance with Order XI Rule 5 of the Civil Procedure Code. Thus, it is prayed for rejection of the application.

5. Upon perusal of the record, it is revealed that documents were placed before the Court along with application Exh.15. The record further revealed that on the said application my learned predecessor had passed an order and allowed the defendant to produce the documents. In the light of this factual aspect the contention raised in the application that the documents were not produced without seeking permission of the court, cannot be said to be as per record.
6. In the application Exh.23 it has been mentioned that there was no covering letter and for application to take documents on record, which is contrary to the record.
7. Be that as it may, in my view since my learned predecessor had considered the reasons stated in the application to allow the production of the documents, judicial propriety required that this Court shall not look into the legality of the order passed by my learned predecessor. Therefore, in my view the plaintiff cannot be allowed to agitate the issue in respect of production of the documents before this Court.

8. So far as, the judgments relied upon by learned advocate for the plaintiff are concerned, had it been the case that those judgments were relied upon by the learned advocate for the plaintiff, while application Exh.15 was heard, in that case they could have been considered, but not after the order was passed by my learned predecessor. Therefore, with due respect, in my view at this stage the judgments relied upon by learned advocate for the plaintiff cannot be pressed into service.
9. Under these facts and circumstances of the case, I am of the view that application Exh.23 is devoid of substance and accordingly it is liable to be rejected. Consequently, I pass following order.

**:: ORDER ::**

The application Exh.23 is hereby rejected.  
Costs shall be the cause.  
(Dictated and Pronounced in open Court.)

Panvel,  
Dated :- 11/07/2025

(Dinesh E. Kothalikar)  
District Judge-2, Panvel,  
Dist-Raigad.