

ORDER BELOW EXH.165**IN****Spl.C.S.No. 59 of 2014**

(CNR No.MHSO06-0002852014)

- 1] This is an application to issue witness summons to representation of seven different sugar factories.
- 2] Perused the application and say on it.
- 3] Heard both the learned advocates for the parties.
- 4] Perused the record.
- 5] It is submitted that the witness summons be issued to seven different sugar factories in order to bring documents regarding sugarcane supply in between 2011-12 to 2021-22 in the name of family member of defendants along with bills etc. It is submitted that for final disposal of the suit said documents are necessary.
- 6] The application is challenged as false and not maintainable. Some of the sugar factories are not mentioned in the plaint. The defendants are also having sugarcane crops in their fields. They have supplied sugarcane from some of their fields to some of the sugar factories. The plaintiff is illegally asking for documents till year 2021-22 which is not his case. Hence, the application be rejected.
- 7] Heard both the learned advocates for the parties. The learned advocate for the plaintiff relied upon O-16, Rule 1 of the Code of Civil Procedure that such witnesses can be examined with permission to Court in spite of not filing the list of witness.
- 8] It is settled law that evidence can be adduced only on the

bedrock of pleadings. No evidence is admissible without necessary pleadings. Therefore, the application of the plaintiff should be considered in the background of the plaint. There are averments in the plaint that defendants supplied the sugarcane crop from the suit properties of the plaintiff in their name and grabbed the amounts of the same. In this regard, the examination of alleged sugar factories by production of documents would be useful. But, the cause of action for filing the said suit and grabbing the amounts of sugarcane are stated to be for year 2011-12 to 2013-14. Therefore, only said period is relevant to determine the suit filed in year 2014. It is not the case of the plaintiff that even after filing of the suit, such event has happened. Therefore, the plaintiff can claim said documents only for the year 2011-12, 2012-13 and 2013-14. The calling of documents after year 2013-14 is unnecessarily exercise. So also, the plaintiff has named as many as 7 sugar factories. But, in the plaint there are specific contentions that the defendant No.1 supplied said sugarcane crop either in his name, or in the name of his family members to Vitthal Sahakari, Bhima Sahakari, Krundas Sahakari and Jakariya sugar factories. Therefore, only first four sugar factories are relevant. So, claiming summons to said representatives of only first four witnesses is inconformity with the pleadings in the plaint. The plaintiff on the basis of vague pleadings cannot claim that at his whims summons should be issued to any sugar factory in Solapur District. The trial will be unending in such circumstances. The summons cannot be issued for roving inquiry without basic pleadings. The present suit is more than five years old and issuing summons to unnecessary witnesses is not at all proper. Therefore, following order is passed.

ORDER

1. The application is partly allowed.
2. Issue witness summons to propose representatives of sugar factories No.1 to 4 to bring the record about supply of sugarcane crop along with its bills etc. and documents regarding from which land those were supplied in the name of defendant No.1 Machindra Maruti Naigude, Urmila Machindra Naigude, Pankaj Machindra Naigude, Sagar Macindra Naigude residents of Tarapur, Tq.pandharpur.
3. The representatives of concerned sugarcane factory should bring record only for the year 2011-12, 2012-13 and 2013-14 for said persons.
4. Plaintiff to deposit witness Bhatta, as per rules.

Pandharpur
Date:-03.10.2022

Civil Judge Senior Division,
Pandharpur

CERTIFICATE

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

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Pandharpur
Date : 03-10-2022

Order/Judgment signed
by the Presiding Officer on : 03-10-2022

Order uploaded on : 04-10-2022