

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 1741 OF 2015

Sk. Shakil s/o Sk. Babu ... Petitioner

Versus

Sk. Hasan s/o Sk. Badshaha
died through L.R. & others ... Respondents

.....
Mr. D.J. Choudhary, Advocate for petitioner
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 24th FEBRUARY , 2015

PER COURT :

1. The petitioner is the original defendant in R.C.S. No. 362 of 1998. The plaintiffs have recorded their oral evidence and have filed a closing purshis. Defendant No. 1 has also concluded the recording of his evidence. Thereafter, the plaintiffs have sought to produce documents as regards the passport and the voter identity card of the plaintiffs along with a marriage certificate titled as "Nikaah Sani (Dusara)". The said documents have been permitted to be filed by order dated 15-04-2014 passed on application Exhibit 301.

2. The petitioner, therefore, moved an application Exhibit 304 in R.C.S. No. 362 of 1998 seeking recalling of the order dated 15-04-2014 on the ground that none of the witnesses have referred to the said documents and there is no reference in their pleadings as well as oral evidence. 'Siya Nama' placed on record pertains to Civil suit R.C.S. No. 383 of 1988.

3. The petitioner submits that these documents were not admissible in evidence. The Trial Court should not have permitted the plaintiffs to file them. The petitioner took exception to the impugned order dated 19-11-2014, by filing application Exhibit 304 which has been rejected.

4. I have considered the submissions of the learned Advocate. It is trite law that merely by filing a document or allotting an exhibit number to any such document would not mean that the document is proved and could be referred to as a part of evidence while deciding the suit.

5. The plaintiffs have closed their oral evidence. Ever since the order dated 15-04-2014 has been passed, the plaintiffs will not prayed for liberty to prove those documents. As such, with the passage of about ten months and the said documents having not

been proved in accordance with law, causes no injustice to the petitioner by their mere filing.

6. In the event the plaintiffs initiate some steps with regards to the said documents, the petitioner would get a cause of action.

7. As things stand today in R.C.S. No. 362 of 1998, I do not find any reason to entertain this petition. For the reasons set out here-in-above, the petition is dismissed.

(RAVINDRA V. GHUGE, J.)