

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7364 OF 2015**

Arjun Bhau Ghanwat & Anr.

..Petitioners

Vs.

Bhagwan Namdeo Shinde & Ors.

..Respondents

Mr. Avinash Avhad for the Petitioners

CORAM : R. M. SAVANT, J.

DATE : 1st SEPTEMBER, 2015

P.C.

1 The order dated 3-11-2014 passed by the Learned Joint Civil Judge Junior Division, Phaltan, by which order the applications Exhibit 112 and Exhibit 115 were partly allowed to the extent of drawing presumption as regards signature, handwriting, execution and attestation relating to the document in question namely registered Sale Deed dated 9-3-1953, however rejecting the application in so far as exhibiting the said document on the ground that is proved, is taken exception to by way of the above Petition.

2 The challenge to the order is on the ground that the said document should have been exhibited by the Trial Court. The Learned Counsel for the Petitioners seeks to reiterate the case of the Petitioners before the Trial Court that since certified copy of the document was exhibited and was marked as Exhibit 57 by the Trial Court, the rejection of the application by the

impugned order to exhibit the said document on the ground that it is required to be proved is not sustainable.

3 In so far as the documents which are more than 30 years old are concerned, the presumption relating to them is governed by Section 90 of the Evidence Act and which presumption is relating to the execution of the documents and not the contents. If it is the case of the Petitioners that the said document which has been allowed to be produced and in respect of which a presumption has now been drawn in terms of the impugned order, has already been proved, it would be for the Petitioners to draw the courts attention to the said aspect. However, if the document has merely been exhibited and not proved then in terms of the impugned order the Petitioners /Plaintiffs would have to prove the said document in accordance with law. Hence it is not necessary to interfere with the impugned order but subject to the above, the Writ Petition is disposed of.

[R.M.SAVANT, J]