

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.1600 OF 2014

Shri Goraksha Tukaram Dumbre.] ... Petitioner

Versus

Shri Bhavesh Vagesh Shaligram.] ... Respondent

Mr. Sandesh D. Patil for Petitioner.
Ms. Sandhya A. Mailgir for Respondent.

CORAM :- M. S. SONAK, J.
DATE :- JULY 07, 2015

P. C. :-

1. Rule. With the consent of and at the request of learned Counsel for parties, Rule is made returnable forthwith.

2. This petition challenges orders dated 08/01/2013 and 22/11/2013 made by the Competent Authority and the Revisional Authority declining leave to the Petitioner to exhibit the following documents :-

- a) Original true copy of Agreement for sale dt.11.8.2006,
- b) Original agreement dt.15.12.2005,
- c) Certified copy of written statement in Special Civil Suit no.779/2007,

- d) Original notice u/s 66 of Evidence Act addressed to the Adv. of Applicant,
- e) Copy of letter dt.21.6.2010 addressed to Adv. M.T.Thacker at his Vashi office,
- f) Courier receipt showing acknowledgement of letter dt.21.6.2010 by the office of Advocate M.T.Thacker.

3. The record indicates that the evidence of the Petitioner has not yet concluded. In fact, the Roznama indicates that the matter was adjourned for the purposes of exhibiting/marketing of documents, which include the aforesaid documents. Ultimately, as the documents were not being actually exhibited, the Petitioner, by application dated 07/06/2012, applied that the aforesaid documents be admitted in evidence and exhibited. By the two orders, such application has been denied.

4. Perusal of the record would indicate that insofar as the first document, which is being described as Original true copy of Agreement for sale dt.11.8.2006 is concerned, the Competent Authority has made an order dated 01/07/2010 permitting the production thereof as and by way of secondary evidence. Insofar as the remaining documents are concerned, the originals were sought to be produced. To the documents at Sr.Nos.b. c. d. and e, the Petitioner is one of the signatory. In these circumstances, there could not have been any serious objection to the production and exhibiting of the documents.

5. Accordingly, interest of justice would require that the impugned orders are set aside and the Petitioner's application dated 07/06/2012 is granted. It is, however, clarified that the mere production of the aforesaid documents or the exhibiting of the same, may not be regarded as proof of the contents thereof. Besides, the evidentiary value to be extended to such documents is also a matter which will be ultimately considered by the Competent Authority after the conclusion of the trial. This will, to a substantial extent, take care of the objection raised by the learned Counsel for Petitioner, in relation to the contents of the aforesaid documents.

6. Accordingly, Rule is made absolute in terms of prayer clause (a) subject to the aforesaid observation.

7. Proceedings before the Competent Authority shall be disposed of as expeditiously as possible and in any case, within a period of one year from the date of authenticated copy of this order.

8. The parties to appear before the Competent Authority on 20/07/2015 at 3.00 p.m. and produce the authenticated copy of this order.

(M. S. SONAK, J.)