

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

933 WRIT PETITION NO. 3037 OF 2015
WITH CA/6993/2016 IN WP/3037/2015

SAMBHAJI SUKHDEV MOKAL
VERSUS
YADAV SAKHARAM TAPALE, LRS RAMCHANDRA AND OTHERS

...
Advocate for Petitioner : Shermale K. N.
Advocate for Respondent 2 : B.V. Dhage

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CORAM : T.V. NALAWADE, J.
DATED : 22nd December, 2016.

ORDER :

1. The proceeding is filed to challenge the order made on Exh. 155 in Regular Civil Suit No. 220/2012, which is presently pending in the Court of Civil Judge, Junior Division, Sangamner. Both the sides are heard.

2. The petitioner has filed the suit for relief of injunction that he has become owner due to one affidavit made by lady in his favour before notary public. He has also prayed for other relief like injunction. By filing aforesaid application, he prayed to the Court to give exhibit to the said document. It is contention of the plaintiff that as the affidavit was sworn in before the notary public, the document needs to be given exhibit and there is no necessity to formally prove this document. The Trial Court has held that the provisions of Evidence Act regarding manner of

proving the documents are applicable to this document and the application is rejected.

3. The learned counsel for petitioner placed reliance on the cases reported as **AIR 2007 DELHI 147 [Kamla Rani & Ors Vs. M/s. Texmaco Ltd.]**, **AIR 1992 PUNJAB AND HARYANA 145 [Banarsi Dass Vs. Maman Chand]** and **2006 (1) ALL MR 441 [Jacinto Minguel De Quadros Barretto & Ors. Vs. Haridas Maruti Kamat & Ors.]**. The observations made in aforesaid cases cited supra can be of no help to the petitioner. It appears that the said notary public is not alive and the relevant registers are not with the plaintiff and in view of these circumstances, the plaintiff had made prayer of aforesaid nature. Even if these circumstances are there, the document cannot be exhibited. Much can be observed in respect of the contents of the document and whether the document can be touched by the Court as by this document, an attempt is made to show that some immovable property is transferred. In view of these circumstances, this Court holds that it is not possible to interfere in the order made by the Trial Court. The petition stands dismissed. Civil Application is disposed of.

[T.V. NALAWADE, J.]

ssc/