

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 WRIT PETITION NO. 5835 OF 2016

PARWATIBAI LIMBAJI MEHETRE AND OTHERS

VERSUS

USHA BABARAO BOKAN AND OTHERS

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Advocate for Petitioners : Reddy Ajinkya

Advocate for Respondents : Bora Satyajit S. for R/4, Gangakhedkar

Shailendra S for R/2

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CORAM : T.V. NALAWADE, J.

DATE : 16-09-2016.

ORDER :

1. The petition is filed to challenge the order made on exhibit-84 in R.C.S. No. 174 of 2010 which is pending in the court of Civil Judge Junior Division, Parbhani. Both the sides are heard.

2. The suit is filed by the petitioners for relief of setting aside the registered sale deeds executed in the year 1986 and consequential relief of setting aside the subsequent sale deeds executed by the purchaser of sale deeds of 1986 is also claimed. The property is a part of plot situated within the limits of Municipal Council, Parbhani.

3. The sale deeds of 1986 are shown to be executed by plaintiff no.1 Parwatibai and when the sale deeds are of the year 1986 suit was filed in the year 2010. It is the case of plaintiff no.1 that no such sale deed was executed and possession was also

continued even after 1986.

4. Both the sides have given evidence. During cross-examination, plaintiff no.1 admitted she had sold the suit property about 25 years back. After giving of such admission, aforesaid application was moved for sending the disputed document, the sale deeds of 1986 to expert for seeking opinion by comparison of admitted thumb impression of defendant no.1 with the thumb impression appearing on sale deeds at exhibits-42 and 47. The court has rejected the application by considering that aforesaid admission given by the plaintiff in a cross-examination and by considering the circumstances that such steps are taken only after giving admission and probably it is taken to protract the decision of the suit.

5. This court tried to ascertain as to whether there is something in support of the case. This court asked the learned counsel for the petitioner to show the record like mutation made in assessment record and mutation made in property card. It appears that, in the record of Municipal Council the name of purchaser was entered in the year 1986 itself. Then, the connection of water supply was taken in the plot. Some portion of the plot was sold under the sale deeds and it is the case of the plaintiff they are in the possession of the remaining portion. These circumstances can not be ignored when such application is filed as the suit was filed after more than fourteen years from the date of the sale deeds. Due to these circumstances, this court holds that the trial court has not committed any error in rejecting the application. In the result, the petition stands dismissed.

(T.V. NALAWADE)
JUDGE

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