

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

WRIT PETITION NO. 9142 OF 2016

Shankar Kalu Patil

..PETITIONER

VERSUS

Suresh Bajirao Patil and Others

..RESPONDENTS

....
Mr. P.D. Bachate, Advocate for petitioner.

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**CORAM : T.V. NALAWADE, J.
DATED : 23rd SEPTEMBER, 2016**

ORDER :

1. The petition is filed to challenge the order made in Regular Civil Suit No. 313 of 1976 which is pending in the Court of Civil Judge, Junior Division, Chalisgaon. Application at Exhibit 644 was filed under the provisions of Sections 63 and 65 of Evidence Act for permission to lead secondary evidence.

2. The petitioner has filed the suit for relief of partition and all parties are Hindus. During the pendency of the suit, in the year 2001 and subsequent thereto, the defendant i.e. brothers of the plaintiff sold some property. It appears that plaintiff wants to prove that the sale deeds are

not binding on him and they need to be set aside. Considering the provisions of Hindu Law it is apparently not necessary for the plaintiff to go for such proof, burden will be on the purchaser and also on the defendant to show that they had right to sale the property, if the plaintiff had share in the property.

3. In view of this circumstance, this Court holds that application at Exhibit 644 is itself misconceived. In the result, petition stands disposed of as dismissed.

(T.V. NALAWADE, J.)

SSD