

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10256 OF 2013

MURLIDHAR VEDU SONAR

PETITIONER

VERSUS

SANMUKHLAL GOVARDHAN SHAH

RESPONDENT

Mr.S.V.Natu, Advocate for the petitioner.

Mr.J.R.Shah, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/05/2016

PER COURT :

1. By an order dated 20/12/2013 passed by this Court, RCS No.2/2009 has been stayed.

2. The petitioner is aggrieved by the order dated 13/09/2013 passed by the Trial Court below Application Exh.63 by which the translation of documents Exhibit Nos. 45 to 50 and rest of the documents placed on record alongwith list Exh.44, has not been accepted and therefore not exhibited.

3. Mr.Natu contends that Exhibit Nos. 45 to 50, which are in Gujarathi, can very well be translated and the translation could be placed on record for the assistance of the Trial Court. With regard to

the rest of the documents below List of documents Exh.44, which are photo copies, he does not raise a grievance since the Evidence Act would not permit the admissibility of such document unless the same are proved in accordance with the Evidence Act and by way of secondary evidence.

4. Mr.Shah, learned Advocate on behalf of the respondent submits that though documents are exhibited at 45 to 50, the translation also will have to be proved before the Trial Court unless the other sides, after going through the translation, do not oppose for the same for being a literal translation. He, however, submits that those documents, which are photo copies, cannot be admitted in evidence unless the parties admit the documents or the said documents are proved by the aid of secondary evidence.

5. I have considered the submissions of the learned Advocates and I find that the controversy has narrowed down only to the extent of the documents which have been exhibited.

6. In the light of the above, this petition is partly allowed only to the extent of permitting the petitioner to tender the Marathi and/or English translation of the documents which are granted Exhibit Nos.

45 to 50. The order of the Trial Court to this extent is set aside. However, the impugned order to the extent of refusing to accept the translation of the photo copies of the documents below list Exh.44, is sustained.

7. Considering that the respondent is 95 years old today and the suit was stayed by this Court for about 2 ½ years, the Trial Court shall decide the said suit expeditiously and by giving it precedence.

(RAVINDRA V. GHUGE, J.)