

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2859 OF 2016**

Sai Service Agency Bombay
Limited

Petitioner

Vs

Bapu Sonu Gaikwad, since
deceased, through LRs

.. Respondents

Mr.G.S.Godbole, Senior Advocate, with Ms Neha Prashant and
Monisha Bhangale i/b b ALMT Legal, for Petitioner.

Mr. Madhav Jamdar, Advocate for Respondents.

CORAM : R.G.KETKAR,J.
DATE : 11/03/2016

PC:

1. Heard Mr.Girish Godbole, learned senior counsel for the petitioner and Mr. Madhav Jamdar, learned counsel for the respondents.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 10.2.2016 passed by the learned 12 Jt. Civil Judge, Jr. Dn., Pune below Exhibit 178 in Regular Civil Suit No. 668 of 2010. By that order, the learned trial Judge rejected the application made by the petitioner for leading secondary evidence in respect of sale deeds dated 1.11.1973, 6.9.1973, 20.10.1973, 1.11.1973 and Correction Deed dated 20.7.1982 executed by Bapu Sonu Gaikwad and Shankarrao Cornell. Mr. Jamdar submitted that Mr Dhanyakumar Doshi had acquired development rights from persons whose details are set out in application Exh.80 at clauses

2 to 8. The said Doshi is also Constituted Attorney of these persons and, therefore, original documents must be in his custody. He further submitted that without prejudice to the above contention, the respondents have no objection if witness summons are issued to the persons who, according to the defendant, are in custody and possession of original documents.

3. The petitioner has filed application Exhibit-80 on 12.8.,2011 giving details of the documents produced by the defendant original of which are required to be produced before the trial Court.

4. Mr. Godbole has tendered a list of persons who possibly could have original documents as sought by the defendant. Same is taken on record and marked "X" for identification. In view thereof, the trial Court shall issue witness summons to persons mentioned in the list marked as "X" for production of original documents. Apart from that, for the limited purpose the trial Court will issue witness summons to officer attached to Sub-Registrar's office for producing original register of the relevant period showing signatures of parties who executed the documents.

5. In view thereof, Mr Godbole does not press this petition.

6. The learned trial Judge shall issue witness summons to persons mentioned in the list marked as "X", as also officer attached to Sub Registrar's office, Pune for producing relevant

register of the relevant period showing signatures of executants of the documents in question.

7 Petition is disposed of as not pressed. Order accordingly.

(R.G.KETKAR, J.)