

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5035 OF 2015

Durgabai wd/o Nathulal Hasoriya and ors.

-vs-

Prabhabai Motilal Hasoriya and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. Joshi, Advocate for petitioners.

Shri A. K. Choube, Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 12, 2016

The petitioners are aggrieved by the order passed by the trial Court below Exhibit-133 rejecting the application moved by them for seeking permission to adduce secondary evidence.

After hearing the respective counsel for the parties and after perusing the documents filed on record, I do not find that the trial Court committed any error in observing that when it passed the order on Exhibit-133, there was nothing on record to infer that the document dated 12/05/2002 was either destroyed or lost. For the purposes of seeking permission to lead secondary evidence, it would be necessary for a party to first lead some foundational evidence after which such permission can be sought. In that view of the matter the impugned order does not call for any interference.

In case the petitioners after leading such foundational evidence apply for permission to lead secondary evidence, the trial Court shall consider the application in accordance with law. The contentions of the respondents herein as

regards the entitlement to lead secondary evidence are kept open.

The writ petition is disposed of with aforesaid observations with no order as to costs.

JUDGE

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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Asmita A. Bhandakkar
Personal Assistant

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16/08/2016