

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

WRIT PETITION NO.1566 OF 2017

1. Vithal s/o Gangadhar Bandewar,
Age 53 years, Occu. Business,
R/o Jailaxmi Medical Agencies,
Opp. Dr. Narlawar Doctors, Nanded,
at present Chikhalwadi Corner,
Nanded, Tq. and District Nanded.
2. Dattatraya s/o Gangadhar Bandewar,
Age 48 years, Occu. Business,
R/o Jailaxmi Pharmaceuticals,
Ground Floor, Lotus Hospital,
Nanded, Tq. and District Nanded. ... PETITIONERS

VERSUS

1. Gangadhar s/o Dattatraya Bandewar,
Age 74 years, Occu. Agril.,
R/o Chikhalwadi, Nanded.
2. Kalpana w/o Sanjay Mukhedkar,
Age 50 years, Occu. Household,
R/o "Amaya Nivas",
Vasantnagar, Nanded.
3. Sangita w/o Nitin Katruwar,
Age 40 years, Occu. Household,
R/o Gurukrupa Niwas, Gedu Galli,
Manwat, Tq. Manwat,
District Parbhani. ... RESPONDENTS

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Shri G.G. Kadam, Advocate for petitioners
Shri Vivek Bhavthankar, Advocate for respondents
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CORAM: S. B. SHUKRE, J.

DATED: 3rd March, 2017.

ORAL JUDGMENT :

1. Heard Mr. Kadam, learned counsel for the petitioners and Mr. Bhavthankar, learned counsel for respondents. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. By the application filed on 29/11/2015 (Exh.90), summons to two witnesses, advocate Shri Gajanman Pimperkhede and Sub-Registrar was sought to be issued. While one witness Mr. Advocate Gajanan Pimperkhede has already been examined, the prayer for issuance of witness summons to the Sub-Registrar has been refused by the order passed on 29/11/2016. The petitioners are not satisfied with the order dated 29/11/2016 and, therefore, they have filed the present Writ Petition. It is their contention, they are the defendant Nos.1 and 2 and the respondent No.1 the original plaintiff (respondent Nos.2 and 3 are original defendant Nos.3 and 4), has denied in his cross-examination that he never went to the office of the Sub-Registrar for executing the partition deed. This partition deed is a registered document. According to learned

counsel for the respondent No.1, the original plaintiff, there is no procedure prescribed in law for examination of the Sub-Registrar to prove the contention that the party visited the Sub-Registrar's office.

3. On perusal of the impugned order, I find that the contention raised on behalf of respondent No.1 has been accepted as stating the correct position of law. By the impugned order, the learned Civil Judge has found that, it is for the parties to prove the genuineness of the document, of which registration is denied, by following the procedure prescribed in law, which does not contemplate examination of the Sub-Registrar as a necessary witness. I do not see any perversity or illegality in the impugned order. The Writ Petition deserves to be dismissed with costs. Writ Petition stands dismissed with costs. Rule is discharged.

(S. B. SHUKRE)
JUDGE

fmp/