

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 5698 OF 2016

1. Sou. Sunita Gaheninath Ghorpade,
Age 47 years, Occu. Agri.,
R/o. Naldurg, Tq. Tuljapur,
Dist. Osmanabad.

2. Gaheninath Jagannath Ghorpade,
Age 60 years, Occu. Agri.,
R/o. Naldurg, Tq. Tuljapur,
Dist. Osmanabad.

....Petitioners.

Versus

Srishailya Baburao Mulge,
Age 45 years, Occu. Agri.,
R/o. Gujnur, Post Shahpur,
Tq. Tuljapur, Dist. Osmanabad.

....Respondent.

Mr. V.C. Solshe, Advocate for petitioners.

Mr. K.K. Kulkarni, Advocate for respondent.

CORAM : T.V. NALAWADE, J.

DATED : June 5, 2017.

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. Present proceeding is filed to challenge the order made by Civil Judge, Junior Division, Tuljapur in R.C.S. No. 38/11 on Exh. 66. The suit is filed by present respondent for relief of declaration that the transaction made in favour of defendant is

not out and out sale, but it is mortgage transaction and so, the declaration to that effect be given and further, relief of possession is claimed. At Exh. 66, the application was moved by respondent/plaintiff for giving exhibits to some certified copies of sale deeds executed in favour of defendant, present petitioner by third party by contending that those documents can be used for collateral purpose.

3. Firstly, these are the certified copies of the sale deeds and so, they are private documents. In view of this circumstance, the certified copies could not have been given exhibits for any purpose. Necessary procedure as provided in law needs to be followed, to give evidence on contention which the plaintiff wants to prove. In view of these circumstances, the order of the Trial Court cannot sustain in law. The order dated 1.3.2016 is hereby set aside. For that, the present petition is allowed. There is always liberty for the plaintiff to take appropriate steps. The Trial Court is not to get influenced by the order made by this Court.

Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/