

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6705 OF 2014

DWARKABAI HARISCHANDRA MULE
VERSUS
RAMBHAU TULSHIRAM MULE DECEASED THR. LRS.

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Advocate for Petitioners : Shri N.K.Kakade
Advocate for Respondents : Shri S.H.Panchal
h/f Shri V.B.Garud

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 22, 2017

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PER COURT :-

1. The petitioner is aggrieved by the order dated 26.6.2014, passed by the trial Court, by which, the application Exhibit 70, filed by the petitioner / plaintiff in RCS No.32 of 2007, has been rejected.

2. I have considered the strenuous submissions of the learned Advocates for the respective sides.

3. A short issue has been raised for the consideration of this Court. The plaintiff desired to place on record a public document, which is the School Leaving Certificate maintained by the School run by the Zilla Parishad. The School Leaving Certificate pertains to her deceased husband. As the said School Leaving Certificate was not exhibited, though it has been referred to in the evidence, Exhibit 70

was filed for seeking an Exhibit Number to the said document.

4. The trial Court has rejected Exhibit 70 for the reason that, “ I have perused the provisions of Sections 35, 65 and 74 of Evidence Act. Though it is true that the School Leaving Certificate is public document and it’s original is not required to be proved, however, the question remains regarding matter of contains of certified copy of the School Leaving Certificate.” Based on these conclusions, the trial Court observed that it is necessary to examine the school authority to prove the said document after which it can be exhibited.

5. Learned counsel for the respondent draws my attention to Section 76 of the Indian Evidence Act, stating that the certified copy of the School Leaving Certificate is not properly certified as is required under Section 76.

6. In my view, once the document is held to be a public document under Section 74, it will have to be exhibited since a certified true copy has been placed on record. A public document in original form is rarely brought on record, in the light of Section 76 of the Evidence Act. Moreover, once the document is exhibited, the defendants would get an opportunity to disprove the contents of the document or even to contend that the document has no probative value. This is to be left to the trial Court to consider while deciding

the suit. On this count, neither this Court nor the trial Court could express any opinion, since the suit is pending adjudication and even if any opinion is expressed, the trial Court need not be influenced by the same, since it will scrutinise the concerned certificate for its probative value.

7. Considering the above, this petition is allowed. The order dated 26.6.2014 is quashed and set aside. Application Exhibit 70 stands allowed and the trial Court shall grant an Exhibit Number to the concerned School Leaving Certificate and proceed with the suit expeditiously

8. Needless to state, the litigating sides are at liberty to lead evidence and refrain from seeking adjournments. The litigating sides request that they will appear before the trial Court on 7.7.2017. Request is accepted.

(RAVINDRA V. GHUGE, J.)

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