

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO.9264 OF 2014

Shri Ramchandra Namdeo Ghule & Ors. ...Petitioners

vs.

Shri Rajkumar Kisan Pawar & Ors. ...Respondents

Mr. Vikas B. Shivarkar for the Petitioners.

Mr. Santaram A. Tarle for Respondent No.2.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 11th October, 2017

P.C.:

. Heard the respective counsel. Rule. Rule is made returnable forthwith with the consent of the parties.

2. The present Petitioners seems to be the Plaintiffs in Regular Civil Suit No.68/2008 pending before the 18th Joint Civil Judge Junior Division, Pune. The Plaintiffs had filed an application seeking exhibition of the government map dated 22/3/2008. It was the contention of the Petitioners that the surveyor who had measured the land i.e. Mr. P. N. Lad was also called as a witness. The said witness was confronted with the map, he has admitted that it is the same map which was drawn by him. It is pertinent to note that the witness had not stated in his deposition about the correctness of the

contents of the map. The said application was filed at the stage of final hearing. In fact the suit was for permanent injunction. The only prayer in the application was for exhibiting the documents. The said application seeking exhibition of the document was rejected by the Joint Civil Judge Junior Division by order dated 13/8/2014. Hence the Petition.

3. Mr. Shivarkar, Learned counsel for the Petitioners submits that non exhibition of the said document would be a lacuna in the evidence and, therefore the application ought to have been allowed. Section 80 of the Indian Evidence Act reads as follows:

“Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume—that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.”

3. In view of section 80 of the Indian Evidence Act the exhibition of the documents cannot be denied besides that the witness Mr. Lad had also admitted the documents and has stated that it is the same document which was prepared by him. Hence, the same deserves to be exhibited. The exhibition of the document by itself would not mean that the contents of the document are proved.

However, the existence of the document cannot be denied and therefore the application deserves to be allowed to a limited extent that the document deserves to be exhibited. The Petition deserves to be allowed to the limited extent that the map which is the public document be exhibited. However, it is made clear that exhibition of document would not mean admissibility of the contents of the documents. Hence, the following order:

- i) Petition is allowed and is accordingly disposed of;
- ii) The order dated 13/8/2014 passed by the 18th Joint Civil Judge Junior Division, Pune is hereby quashed and set aside;
- iii) The learned Trial Court shall exhibit the document as contemplated in section 80 of the Indian Evidence Act. However, it is reiterated and made clear that it shall not be construed as a proof of the contents of the document;
- iv) Rule is made absolute in the aforesaid terms.

(SMT. SADHANA S. JADHAV, J.)