

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 5679 OF 2015

MEHBOOB KHAN NOOR KHAN
VERSUS
THE CIVIL JUDGE, SENIOR DIVISION, AURANGABAD

.....
Advocate for Petitioner : Mr. P. V. Mandlik, Senior Advocate i/by Mr.
Tekale Nikhil S.
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CORAM : V. K. JADHAV, J.
DATED : 22nd MARCH, 2018

PER COURT:-

1. This Writ Petition pertains to the order passed by the learned Civil Judge, Senior Division, Aurangabad, on the application for obtaining certified copies. The learned Civil Judge Senior Division, Aurangabad by order dated 27.12.2014 has rejected the application. Hence, this writ petition.

2. Brief facts of giving rise to the present writ petition are as follows:-

A) One Harikishan Mishrilal Darakh had instituted a suit bearing Spl.C.S. No. 51 of 2000 (old RCS no.1107 of 1992) for partition and separate possession of the land Survey No. 43, situated at Bhavsingpura, Aurangabad against 26 defendants. The present petitioner was also a party defendant in the said suit. During the

pendency of the suit, the plaintiff had filed an application for issuance of the order of temporary injunction and aggrieved by the order passed by the trial court, the defendants have filed Civil Revision Application no. 39 of 1994 before this court. In the said CRA No.39 of 1994, this court had called the record from the Sub-Divisional Office, Vaijapur, of file bearing No.119. On 21.01.1994, this court in the said civil revision application has directed the Additional Registrar of this court to seal the file bearing No.119 received from the Sub-Divisional Office, Vaijapur and send it to the trial court. This court has also directed that the trial court shall keep the said file in a sealed envelope till final disposal of the suit and further granted liberty to the parties to apply to the trial court for inspection or copies of such documents of the said file, in case, such an occasion arises.

B) By judgment and order dated 31.07.2001, the trial court has disposed of the said Spl.C.S. no.51 of 2000 (old RCS no.1107 of 1992). Being aggrieved by the same, original defendants no.1, 2 and 12 had preferred First Appeal no.202 of 2002 before this court. However, First Appeal no.202 of 2002 came to be transferred to the District Court, Aurangabad and renumbered as RCA no.255 of 2016 before the District Court, Aurangabad.

C) The petitioner, who is also the respondent in the aforesaid appeal pending before the District Court, has filed an

application for certified copies of documents of said file no.119 of the Sub-Divisional Office, Vaijapur, which is kept in the custody of the Nazarat of the Civil Court, Senior Division, Aurangabad. However, the learned Civil Judge Senior Division by impugned order dated 27.12.2014 rejected the said application. Hence, this writ petition.

3. Mr. P. V. Mandlik, learned senior counsel for the petitioner submits that the petitioner being a party to the said suit and also the party to the pending RCA no. 255 of 2016 is entitled for the certified copies of the documents from the file no.119 of the Sub-Divisional Office, Vaijapur, which is presently in the custody of the Nazir of the Civil Court, Senior Division, Aurangabad. Said file bearing no.119 is a part of the record and proceedings of the original suit. Even this court has also granted liberty while disposing of Civil Revision Application no.39 of 1994 to the parties to inspect the file and apply for copies, if such occasion arises. The learned senior counsel submits that Assistant Superintendent of Civil Court, Senior Division, Aurangabad has also submitted a note to the Civil Judge, Senior Division, Aurangabad that in terms of Chapter 29 para 559(10) of the Civil Manual, certified copies can be issued.

4. I find no difficulty to grant certified copies of the documents as sought by the petitioner. This court has also passed order way back in

the year 1994 permitting the parties to apply for inspection or copies, if occasion so arises. At present, the RCA no.255 of 2016 is pending before the District Court and even if the appeal is disposed of, the present petitioner, who is a party to the suit and also to the appeal, is certainly entitled for the certified copies of the documents from the said file. Hence, I proceed to pass the following order.

ORDER

- 1) Writ petition is thus allowed in terms of prayer clause “B(ii)”, and disposed of accordingly.

(V. K. JADHAV, J.)

vsm/