

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 WRIT PETITION NO. 6016 OF 2017

RAMCHANDRA BHIMRAO BIRGE AND ANOTHER
VERSUS
BHAGIRATHIBAI HULAJIRAO KABADE DIED LRS VITHAL HULAJIRAO
KABADE AND OTHERS

...
Advocate for Petitioners : Mr. Suryawanshi R.R.
Advocate for Respondents : Mr. Ajinkya Reddy
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CORAM : V. K. JADHAV, J.
DATED : 3rd APRIL, 2018

PER COURT:-

1. I do not find any substance in this writ petition. By way of this writ petition, the petitioners-original defendants are challenging the order dated 18.2.2017 passed by learned 3rd Joint Civil Judge, Junior Division, Udgir below Exh.60 in Regular Civil Suit No. 419 of 2015.

2. The respondents-plaintiffs have filed an application Exh.60 to exhibit the document dated 16.2.1993 named and styled as "Tharavpatra". It is the case of the respondents-plaintiffs that the said document was executed by defendant No.1 in favour of original plaintiff Bhagirathibai. It has also been contended in the said application that the present petitioners have admitted the execution of said document and in view of provisions of Section 58 of the Indian Evidence Act, the admitted document need not be proved. The

petitioners have strongly resisted the said application.

3. On careful perusal of the contents of application Exh.60, the written statement filed by the petitioners and the impugned order passed below Exh.60, it appears that the petitioners have admitted in para 4 of the written statement the execution of the said document dated 16.9.1993 that the said document is prepared on the bond paper and it was signed by the plaintiff and defendant No.1.

4. In view of the same, the trial court has observed that if the defendants (petitioners herein) have admitted execution of document, the document can be exhibited to the extent of execution of the document. It is thus clear that the said document has been exhibited to the extent of execution and not with regard to the contents therein and therefore, no prejudice is likely to be caused to the petitioners, in any manner. In the result, I do not find any substance in this writ petition. Writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

rlj/