

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3958 OF 2013

PREMALA KASHINATH PANDE GPA KASHINATH HAWAPPA PANDE
VERSUS
THE CO-OPERATIVE OIL INDUSTRIES LTD., LATUR AND ANOTHER

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Advocate for the Petitioner : Shri Gunale Prakash G..
Advocate for Respondent 1 : Shri Deshpande Siddharth R..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st November, 2018

Per Court:

1 The Petitioner/ original Defendant No.2 is aggrieved by the orders dated 26.03.2013 passed below Exhibit 56 and dated 15.04.2013 passed below Exhibit 59 in RCS No.578/2009 by which, the Trial Court has permitted the original Plaintiff to lead evidence and also lead secondary evidence on a certified copy of the document maintained by the office of the Taluka Inspector of Land Records (TILR).

2 The contention of the Petitioner is that both the orders are unsustainable as oral evidence was already closed by the parties and hence, the Plaintiff could not have been granted leave to examine that witness, who was already examined earlier. This challenge is with regard to the application Exhibit 56 filed by the Plaintiff seeking leave to examine

Shri B.B.Holkar, Measurer of the TILR Office, Latur.

3 Insofar as the first challenge in this petition to the extent of the order below Exhibit 56 is concerned, there is no dispute that after the recording of oral evidence was concluded and the parties closed recording of their oral evidence, the issues were recast and after such recasting of issues, the litigating sides were granted leave to lead additional evidence. It is pursuant to this development, that the Plaintiff moved the application Exhibit 56 seeking leave to examine Mr.Holkar with regard to the additional issue framed. The Trial Court has considered the above fact situation and granted Exhibit 56 since the Plaintiff cannot be restrained from choosing his witness to be examined to the extent of the additional issue framed.

4 In this backdrop, I do not find that the impugned order dated 26.03.2013 could be faulted and hence, this writ petition deserves to be dismissed to that extent.

5 Insofar as the impugned order dated 15.04.2013 below Exhibit 59 is concerned, the contention of the Petitioner is that Exhibit 59 could not have been allowed as the original copies of the measurement map and connected documents were not before the court. The Plaintiff could not have been permitted to produce the "C" copy of the map and the record, for the purpose of leading secondary evidence under Section 65 of the Evidence Act.

6 There is no dispute that the TILR office, Latur has prepared three copies from the same mechanical manufacturing process as required by the measurement manual applicable to the said Department. "A" and "B" copies are maintained in the main file and the "C" copy is issued as an authentic certified document to the concerned party. All these three documents are manufactured through a common mechanical process as required under Section 63 of the Indian Evidence Act and as such, these documents can be treated to be authentic. The Trial Court has considered the said aspect and has concluded that the "C" copy is officially supplied to the parties by the office of the TILR in view of the measurement manual. I find that the said "C" copy could be utilized for the purpose of leading evidence. The Trial Court has left the issue of admissibility of the said document open, which has not been challenged by the original Plaintiff.

7 In this fact situation, the impugned order dated 15.04.2013 cannot be branded as being perverse or erroneous. As such, this Writ Petition being devoid of merit is, therefore, dismissed.