

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

WRIT PETITION NO. 10726 OF 2018

NARHARI DHONDJI ALIAS DHONDIBA KOLSHIKWAR
THROUGH LRS SARASWATIBAI NARHARI KOLSHI
VERSUS
SHANTABAI BALAJIRAO KOLSHIKWAR AND OTHERS

...

Advocate for the Petitioner : Shri A. N. Nagargoje

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th SEPTEMBER, 2018.

...

PER COURT :

1. The petitioner/defendant No.1 in RCS No.27/2011 is aggrieved by the order dated 26/07/2018 passed by the learned Trial Court rejecting his application Exhibit 129 calling upon the plaintiff to admit or deny the documents filed below list Exhibit 124, particularly Sr.No.3 which is a sale-deed dated 15/06/1995 (xerox copy).

2. The Trial Court has rejected the said application on the ground that the entire evidence of the plaintiff has been concluded and evidence of defendant Nos. 11, 12 and 14 supporting the plaintiffs' case has also been concluded. This defendant No.1 is facing cross-examination. The Trial Court

has, therefore, held that the stage for calling the plaintiff to admit or deny the documents, which is before the settlement of issues, has already passed by.

3. Though, the learned Advocate for the petitioners has strenuously criticized the impugned order, I do not find that his contentions deserve consideration for the reason that a Photostat copy of the document cannot be filed in trial. Though, the Photostat copy has been received by the petitioner under the Right to Information Act, such a xerox copy cannot be confronted to the plaintiff, whose evidence is already closed, calling upon him to admit or deny the contents of a Photostat copy.

4. In view of the above, this petition being devoid of merit, is dismissed. However, if the petitioner finds any remedy permissible in law to prove the document received under the Right to Information Act, he would always be at liberty to take recourse to such a remedy.

(RAVINDRA V. GHUGE, J.)

shp/-