

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

WRIT PETITION NO. 733 OF 2018

SAMPAT RAGHUNATH WAGASKAR
VERSUS
BABAN DADA KHARMALE AND OTHERS

...

Advocate for the Petitioner : Shri Gaware Niteen V.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd January, 2018

Per Court:

1 The Petitioner/ original Plaintiff is aggrieved by the order dated 02.05.2017, by which, the application Exhibit-52 filed by the Petitioner seeking leave to lead secondary evidence in RCS No.217/2012, has been rejected.

2 The learned Advocate for the Petitioner has strenuously criticized the impugned order contending that the case of the Petitioner would fall under Section 65(a) of the Indian Evidence Act, 1872 as the concerned registered Sale Deed dated 05.01.1982 is in possession of one of the Defendants.

3 The case of the Petitioner could have been better appreciated had he specifically averred either in the plaint or in Exhibit-52 that the sale deed was registered before the competent authority and the original

registered sale deed was preserved or was in possession of the Defendants. Since that is not contended and Exhibit-52 is a skeletal application hardly making out any reason for grant of leave to lead secondary evidence under Section 65, this petition is rendered devoid of merit.

4 The learned Advocate for the Petitioner submits that as the registered sale deed is in possession of one of the Defendants, the Petitioner would resort to a remedy of issuing a notice for production of documents before the Trial Court against the Defendants.

5 Considering the above, this Writ Petition is disposed of.

6 Needless to state, the Petitioner may resort to any such provisions of the Code of Civil Procedure as is permissible in law.

kps

(RAVINDRA V. GHUGE, J.)