

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10129 OF 2016

1. Shri Uttareshwar Balwant Sopal (*Since Deceased*),]
Through LR. :]
1-A. Shri Shivaprasad Uttareshwar Sopal]
Age : 45 years, Occ. Service,]
R/of 2511, Ganesh Road, Barshi,]
Dist. Solapur.]
1-B. Smt. Pravina Nandkumar Honrao,]
Age : 55 years, Occ. Service,]
R/of Navi Peth, Solapur.]
1-C. Smt. Shradha Umesh Gavare,]
Age : 52 years, Occ. Service,]
R/of Karad Road, Pandharpur,]
Dist. Solapur.]
1-D. Smt. Bharati Vishwanath Dulange,]
Age : 50 years, Occ. Housewife,]
R/of Jodbhavi Peth, Solapur.]
1-E. Smt. Aarti Milind Sakhare,]
Age : 50 years, Occ. Household,] Petitioners /
R/of Datta Peth, Karmala, Dist. Solapur.] (Org. Defendants)

Versus

1. Abdul Rashid Mahamad Hasan Jikre,]
(Since Deceased), through LR.:]
1-A. Nasir Abdul Rashid Jikare,]
Age : 60 years, Occ. Business,]
R/of 2549/2, Latur Road, Barshi,]
Dist. Solapur.]

Respondent No.1 for himself and as	]
a Power of Attorney Holder of	]
Respondent Nos.2 to 5.	]
2. Maksud Abdul Rashid Jikare,	]
Age : 58 years, Occ. Business	]
3. Manjur Abdul Rashid Jikare (Since Deceased),	]
Through LRs.:-	]
3a. Shafin Manjur Jikare,	]
Age : 46 years, Occ. Housewife.	]
3b. Aafrin Manjur Jikare,	]
Age : 27 years, Occ. Education.	]
3c. Aasma Manjur Jikare,	]
Age : 26 years, Occ. Education.	]
3d. Reshma Manjur Jikare,	]
Age : 23 years, Occ. Education.	]
3e. Mohammad Manjur Jikare,	]
Age : 18 years, Occ. Education.	]
All residents of 2549/2, Latur Road,	]
Barshi, Dist. Solapur.	]

.... Respondents /
(Original Plaintiffs)

Mr. S.D. Thokade for the Petitioners.

Mr. Dadhichi S. Mhaispurkar for Respondent Nos.1 and 3a to 3e.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 10TH JANUARY 2018.

ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. Heard finally, at the stage of admission itself, by consent of Mr. Thokade, learned counsel for the

Petitioners, and Mr. Mhaispurkar, learned counsel appearing for Respondent Nos.1 and 3a to 3e.

2. By this Petition, filed under Article 227 of the Constitution of India, the Petitioners are challenging the order dated 22nd February 2016 passed by learned District Judge-1, Barshi, below “Exhibit-64” in Civil Appeal No.173 of 2014. The said application was filed by the Petitioners herein, who are Appellants before the First Appellate Court, for seeking production of original Sale Deed dated 31st December 1997 and certified copy of the order passed in Regular Civil Suit No.45 of 1998.

3. The application at “Exhibit-64” was opposed on the ground that, the certified copy of the Sale Deed dated 31st December 1997 and also the certified copy of the order passed in Regular Civil Suit No.45 of 1998 is already produced on record. Hence, it was submitted that production of original Sale-Deed is not necessary.

4. In view thereof, the Appellate Court has rejected the said application “Exhibit-64”.

5. However, as rightly submitted by learned counsel for the Petitioners, both these documents, certified copy of the Sale-Deed and certified copy of the order are not exhibited. Hence, considering that the

certified copy of the Sale Deed dated 31st December 1997 and also the certified copy of the order in Regular Civil Suit No.45 of 1998, were already produced on record and they were also referred to by the Trial Court but not exhibited, it would be proper, if the certified copy of the said Sale Deed and the certified copy of the order in Regular Civil Suit No.45 of 1998, are allowed to be exhibited and admitted in evidence. It will also solve the grievance of the Petitioners.

6. Accordingly, the Writ Petition is disposed of only with a direction that, the Appellate Court will admit in evidence and mark as exhibit the certified copy of the Sale Deed dated 31st December 1997 and the certified copy of the order passed in Regular Civil Suit No.45 of 1998.

7. Rule is made absolute in above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]