

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION No.7471 OF 2013

Shri Vilas Maruti Kate

... Petitioner

Vs.

Shri Pravin Maruti Kadam & Ors.

... Respondents

Mr.Pradeep S. Gole for the Petitioner

Mr.R.C. Barge for Respondent No.1

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 11, 2018**

P.C. :

1. This petition is pending since 2013 for admission. The petition is on a very short point i.e., rejection by the trial Court for production of secondary evidence.
2. Heard the learned Counsel for the parties.
3. I have perused the orders dated 18.3.213 below exhibit 58 and another order below exhibit 60. The sum and substance of these applications filed by the plaintiff and the orders passed thereon by the learned trial Judge is that the plaintiff wants to bring on record a document i.e., Deed of Mortgage dated 12.7.1923. As

the original copy of the said document is not with him, he wanted to produce a certified copy, however, he did not mention in the application that he does not have the original copy of the document. The trial Court has taken a view that he must lay foundation to lead the secondary evidence and, therefore, the trial Court observed that he should have made an application for production of the said document.

4. In view of the above, this petition can be disposed of with the following order:

- i) The petitioner shall move an application before the trial Court for production summons to the Sub-Registrar, Satara, for producing the original copy of the Deed of Mortgage dated 12.7.1923.
- ii) If the Sub-Registrar, Satara is unable to produce the original copy of the said Deed of Mortgage, then, the plaintiff may move an application for leading secondary evidence by way of certified copy of the said document and the trial Court to consider the same.

iii) The application before the trial Court be made within 10 days from today.

5. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)