

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO.3581 OF 2018

RENUKA @ VANDANA KAILAS KADU
VERSUS
EKNATH BHAGCHAND TAKE

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Advocate for Petitioner : Shri Kadu Shivraj B.
Advocate for Respondent : Shri Badakh V.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 05, 2019

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PER COURT :-

1. I have heard the learned Advocates for the respective sides.

2. The trial Court has passed the following impugned order:-

"After perusal of R & P it reveals that original will is not on record, therefore, application is rejected. R & P be sent back."

3. Learned Advocate for the petitioner submits that the original will is now available with the petitioner and can be deposited before the learned Civil Judge S.D. in Civil Probate Application No.3 of 2015 forthwith. Her application Exhibit 113 can, therefore, be reconsidered.

4. Though the learned Advocate for the respondent opposes the said request, I find that ends of justice would be met if an opportunity

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is granted to the petitioner to produce the original will before the said Court along with the requisite court fees.

5. In view of the above, this petition is partly allowed. The impugned order dated 12.12.2017 is quashed and set aside. Exhibit 113 is restored in Civil Probate Application No.2 of 2015. Both the litigating sides would appear before the learned Court on 26.3.2019 and on the same date, the petitioner shall produce the original will before the Court along with the court fees as may be ordered by the Court.

(RAVINDRA V. GHUGE, J.)

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