

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

APPEAL FROM ORDER NO.31 OF 2019
WITH
CIVIL APPLICATION NO.6484 OF 2019
IN AO/31/2019

RAVINDRA SANTRAM NALAWADE AND OTHER
VERSUS
BAPUSAHEB BHAGINATH NALAWADE AND OTHER

...
Advocate for the Appellants : Shri Awasarmol Rahul O.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th June, 2019

Per Court:

1 The Appellants, who are the original plaintiffs, are aggrieved by the judgment and order dated 07.03.2019 delivered by the first Appellate Court by which, Regular Civil Appeal No.280/2016 was allowed and both the litigating sides are permitted to produce their documents below exhibits 14 and 18 before the Trial Court and adduce additional evidence in order to prove the said documents.

2 The learned advocate for the appellants has strenuously criticized the impugned order and has drawn my attention to the fifteen grounds formulated in the memo of the appeal.

3 I find from the record that during the pendency of the appeal,

the original defendants moved the application exhibit 13 for permission to produce the documents below list exhibit 14. The original plaintiffs also desired to file some more documents and moved an application exhibit 17 for producing the documents below list exhibit 18. The first Appellate Court considered these applications and gave a cursory glance to the documents proposed to be filed. After going through the documents, the first Appellate Court was convinced that though the permission to file these documents can be granted to the plaintiffs and defendants by allowing their applications exhibits 13 and 17, the documents, sought to be produced below the lists exhibits 14 and 18, will have to be proved in accordance with the Indian Evidence Act. In this backdrop, the first Appellate Court set aside the impugned judgment and decree of the Trial Court and while remanding the suit, granted liberty to the litigating sides to lead evidence with respect to the documents below the lists exhibits 14 and 18.

4 In my view, the first Appellate Court has taken a pragmatic view. As the documents sought to be produced were never on record earlier, the first Appellate Court granted liberty to the parties to produce the said documents and prove them so as to convert such documents into admissible evidence. I, therefore, do not find that the impugned judgment could be termed as being perverse or erroneous or is likely to cause gross injustice to the appellants.

5 As such, this Appeal from Order is rejected. The Civil Application does not survive and stands disposed off.

kps

(RAVINDRA V. GHUGE, J.)