

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

946 WRIT PETITION NO.9056 OF 2015

SYED SALAUDDIN SYED KHALIL AHMED
VERSUS
SYED AQILODDIN SYED KHALIL AHMED AND OTHERS

...

Advocate for Petitioner : Mr. Pathan Hamzakhan I. And
Sk. Wajeed Ahmed
Mr. Shaikh S.K. For R/1 And 2.

CORAM : P.R. BORA, J.
DATED : 3rd April, 2019.

PER COURT:-

1. Heard learned counsel for petitioner and learned counsel for the respondents.

2. Petitioner is defendant No.2 in Special Civil Suit No.16/2013 pending before the Joint Civil Judge, Senior Division, Parbhani. He had filed an application seeking witness summons against one Shaikh Firoz Shaikh Faruq to prove the agreement deed allegedly executed by deft.No.1 in favour of deft.No.2. The said application came to be rejected. The said order is challenged in the present writ petition.

3. I have gone through the impugned order. It appears to me that the reasons, as are assigned while rejecting the application, are unsustainable. An opportunity of hearing must have been given to

(2)

deft.No.2 to prove the agreement concerned.

4. The learned counsel appearing for the respondents though has supported the impugned order could not bring to my notice as to what prejudice was likely to be caused to the respondents, had the trial court permitted the witness to be examined. In such circumstances, I am inclined to allow the present writ petition. Hence, the following order, -

ORDER

i. The writ petition is allowed. The application at Exh. 84 in Special Civil Suit No.16/2013 stands allowed.

ii. The trial court shall record evidence of the said witness and proceed further in accordance with law.

(P.R. BORA)
JUDGE

BDV