

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.12519 OF 2018

EKNATH KISAN KHAIRE AND OTHERS
VERSUS
NATHA ANANDA KHAIRE AND OTHERS

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Advocate for Petitioners : Shri Palsikar Vikrant S.
Advocate for Respondents : Shro Bolkar Yogesh a/w Shri Choudhari S.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 14, 2019

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PER COURT :-

1. The petitioners are the appellants in RCA No.158 of 2015. They preferred application Exhibit 38 seeking leave to amend the grounds in the appeal, so as to insert a ground touching the sale deed bearing No.3481 of 1996. It was further mentioned that the signature of witnesses and the thumb impression on the sale deed are required to be examined.

2. Learned Advocate for the respondents submits that this sale deed was already brought on record before the trial Court, was subjected to the test of proving the documents and finally the trial Court concluded that the said sale deed is proved to be a forged document.

3. Apparently, the appellate Court would consider all contentions of the litigating sides and especially the grounds formulated by the

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appellants as regards the assertion that the judgment of the trial Court is perverse and erroneous.

4. In so far as bringing forth additional evidence under Order XLI Rule 27 of the Code of Civil Procedure (CPC) is concerned, the Honourable Apex Court has crystallized the law in Malyalam Plantation Ltd. Vs. State of Kerala [AIR 2011 SC 559], Union of India Vs. Ibrahim Uddin and another [(2012) 8 SCC 148] and A. Andisamy Chettiar Vs. A. Suburaj Chettiar [AIR 2016 SC 79], which would enable the appellate Court to consider any issue under Order XLI Rule 27 of the CPC at the final stage, while deciding the appeal.

5. In view of the above, this petition is disposed off. RCA No. 158 of 2015 shall be decided by the appellate Court as expeditiously as possible and preferably on/or before 15.6.2019. Needless to state, it would consider the contentions of the appellants as well as the respondents and would keep in focus as to whether the sale deed was subjected to any adjudication by the trial Court.

(RAVINDRA V. GHUGE, J.)

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