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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7820 OF 2018

Baban Shripati Sutar	..Petitioner.
V/s.	
Dhondiram Shivaji Sutar & Ors.	..Respondents.

Mr.Mahindra B.Deshmukh for the petitioner.

Mr.Nitin Deshpande for respondent No.1.

CORAM : M.S.SONAK, J.

DATE : APRIL 22, 2019

ORAL JUDGMENT

Heard Mr.Deshmukh, learned counsel for the petitioner and Mr.Deshpande, learned counsel for respondent No.1.

2. Mr.Deshmukh, learned counsel for the petitioner submits that the remaining respondents have been served and in any case, they are not the contesting parties in so far as the controversy in the present petition is concerned.

3. Accordingly Rule. Rule made returnable forthwith with the consent and at the request of the parties.

4. Challenge in this petition is to the order dated December 12, 2017 by which learned trial Judge has refused to mark the

agreement June 30, 2005 as exhibit in the course of the trial.

5. The record indicates that learned trial Judge has already granted leave to the petitioner to lead secondary evidence in relation to this very document. The petitioner has examined the writer of this document as a witness. In these circumstances, learned trial Judge was not justified in refusing to exhibit the said document by way of secondary evidence. The impugned order is accordingly liable to be set aside and learned trial Judge is directed to exhibit the said document.

6. However, it is clarified that mere exhibit of such a document need not be confused with the proof of contents of such document. It is for the petitioner to prove the contents of such documents in accordance with the law. All objections on the part of the respondents in this regard are specifically kept open.

7. Rule is made absolute in the aforesaid terms with the clarification as aforesaid. There shall be no order as to costs.

8 All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)