

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.1964 OF 2017**

Uttam Laxman Fanse and Ors. ... Petitioners  
Vs.  
Pravin Uttam Fanse and Ors. ... Respondents

.....

Mr. Dilip Bodake for the Petitioners.  
Mr. Uday G. Jaguste for the Respondent Nos.1 to 3.

.....

**CORAM : M. S. KARNIK, J.**

**DATE : 28<sup>th</sup> AUGUST, 2019.**

**P. C.:**

1. Heard learned counsel for petitioners and learned counsel for respondent Nos.1 to 3-original plaintiffs.

2. The petitioners are the original defendants who filed an application below Exhibit 61 for producing sale deed on record as the secondary evidence. The suit is for partition and separate possession. It is the contention of the petitioners-original defendants that the suit property bearing Gat No.26 was purchased by the defendants on 25.01.1993 by registered sale deed. However, the original document is not traceable and the petitioners wanted to place the certified copy of the sale deed

dated 25.01.1993 on record as secondary evidence. The property is purchased by respondent No. 2.

3. Be that as it may, the present application below Exhibit 61 is for bringing on record the certified copy of the sale deed dated 25.01.1993 as secondary evidence. The Trial Court has proceeded on footing that no specific details have been stated about the loss of the original documents. However, the pleadings on record and the evidence it clearly indicates the case of the petitioners that the property in question was purchased by registered sale deed the certified copy of which is placed on record along with written statement.

4. Learned counsel for the respondents opposed the Petition and supported the impugned order.

5. Heard. In the application it is stated that the original sale deed is lost by the defendants as the same could not be found and therefore it is not possible to place on record the original sale deed. Even in the evidence the plaintiffs have admitted the existence of the sale deed. The document in question is a certified copy of the sale deed dated 25.01.1993. The plea that the

property was purchased by a registered sale deed and even the certified copy of the document on which the plea of the petitioners is based was placed on record alongwith the written statement. In my opinion, the Trial Court should have allowed the application instead of rejecting the same on the ground that no specific details have been stated about the loss of original document. The original document is a registered sale deed. The document to be brought on record is a certified copy of the registered sale deed certified by the Registrar. In these circumstances, there was no difficulty to allow the application Exhibit 61. Therefore the application Exhibit 61 is allowed subject to cost of Rs.2,000/- payable by the petitioners to the Chief Minister's Relief Fund within a period of four weeks from today.

6. Considering that the suit is of the year 2010, the Trial Court is requested to expedite the suit and decide the same preferably within a period of 18 months from today.

7. The Petition is allowed in the above terms.

( M. S. KARNIK, J. )