

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3916 OF 2017

(VINAYAK JYOTIBHA JADHAV...VS.. SUSHIL SOHANLAL AGRAWAL)

WITH

WRIT PETITION NO.7340 OF 2017

(SUSHIL SOHANLAL AGRAWAL ..VS.. VINAYAK JYOTIBA JADHAV)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S.Sadavarte, Advocate for Shri Vinayak Jadhav.
Shri Dipesh Mehta, Advocate for Shri Sushil Agrawal

CORAM : Z.A.HAQ, J.

DATED : JULY 08, 2019.

Heard.

These two writ petitions can be disposed by common judgment as both these petitions arise out of same order passed by the trial Court in the civil suit.

Writ Petition No.3916 of 2017 is filed by the original defendant. The grievance of the defendant is that the trial Court has committed an error by recording that the document (Exh.86) stands proved. The trial Court has observed that the document is already exhibited and will have to be read in evidence but its evidentiary value will have to be decided at the time of final arguments.

Writ Petition No.7340 of 2017 is filed by the plaintiff to challenge the order rejecting of application (Exh.201) filed by him. By the application (Exh.201), the plaintiff sought permission to lead secondary evidence in respect of three documents, two being photocopies and third document being photocopy, original of which is also on

record. As far as third document is concerned, it is submitted by the learned Advocate for the plaintiff that photocopy of it was filed along with plaint and now original is also produced on record. However, in the meantime, certain portion of this original document got damaged and the signature of the plaintiff on that document is washed out. The plaintiff is not disputing that the signature which is washed out was of the plaintiff. In this situation, the defendant has no objection for permitting the plaintiff to lead secondary evidence *vis-a-vis* this third document i.e. form required to be submitted for registration of the documents (refer page No.262 of Paper Book of W.P. No.7340/2017).

The other two documents on which the plaintiff wants to lead secondary evidence, are photocopies of the e-stamps. The learned Advocate for the plaintiff submits that this part of the order is not being challenged by the plaintiff and the plaintiff will take steps to seek production of those original documents before Court by taking steps according to law.

Another grievance of the plaintiff is that by order dated 3rd May 2017, the learned trial Judge has refused permission to the plaintiff for re-examination of his witness.

As the plaintiff is permitted to lead secondary evidence on the document i.e. form required to be submitted for registration of the documents and the plaintiff intends to take steps to seek production of the other two documents, photocopies of which are produced on record, the plaintiff is permitted to move appropriate application seeking permission to adduce evidence on those documents and if such

application is filed the application shall be decided by the learned trial Judge on its own merits and the order passed by the learned trial Judge on 3rd May 2017 shall not come in the way of the plaintiff.

As far as claim of the plaintiff for re-examination of the witness in relation to certain documents, which are produced on record during the course of cross-examination, the plaintiff is permitted to move application in the matter and this application shall also be decided by the learned trial Judge according to law.

The writ petitions are **disposed** accordingly. In the circumstances, parties to bear their own costs.

JUDGE

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