

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

924 WRIT PETITION NO.1239 OF 2020

THE NANDED EDUCATION SOCIETY THROUGH ITS
SECRETARY
VERSUS
NIRMALABAI NEMICHAND BAKLIWAL AND OTHERS

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Advocate for Petitioners : Mr. Natu Sharad V.
Advocate for Respondent Nos.2 to 11 : Mr. G.R. Syed

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**CORAM : ROHIT B. DEO, J.
DATED : 12th FEBRUARY, 2020.**

PER COURT:-

. The learned counsel Shri G.R. Syed, who appears for respondents 2 to 11 states that although respondent 1 has expired, her legal heirs are on record. In view of the said statement, respondent 1 is deleted.

2. The petitioner has a limited submission to canvass. The petitioner is the defendant in R.C.S. 441 of 2010 brought by the respondents for declaration of ownership and injunction. In the said suit, the petitioner has lodged a counter claim seeking a declaration that the sale deed executed in favour of the respondents is null and void and consequentially injunctive relief is claimed.

3. The petitioner examined Shri Vinayak Haribhau Rajurkar to prove the sale deed executed in the year 1962. Shri Vinayak Haribhau Rajurkar deposed that he is a witness

to the said sale deed. The learned counsel for the plaintiffs objected to the evidence contending that Shri Vinayak Haribhau Rajurkar is not the author of the document and therefore, the document be exhibited only for a limited purpose i.e. to prove the execution and not the contents. The Trial Court accepted the objection and ruled that the contents of the document are not proved. The document is exhibited for the limited purpose of proving execution and not the contents.

4. Having heard the respective counsel, I am satisfied that while the order impugned needs no interference, the issue of the evidenciary value of the statement on oath by the witness Shri Vinayak Haribhau Rajurkar and whether the contents of the document in question are proved, shall have to be kept open for the Trial Court to decide at the stage of final arguments. This clarification is made since proof or otherwise of the document depends on overall appreciation of the evidence on record.

5. Subject to the aforesaid observation, the petition is dismissed.

(ROHIT B. DEO, J.)