

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3667 OF 2018

Dharmaraj s/o Ramchandra Patil ... PETITIONER

VERSUS

Bhagwan Kautik Patil & ors. ... RESPONDENTS

.....
Shri K.C. Sant, Advocate for petitioner
Shri G.S. Rane, Advocate for respondent No.2
.....

CORAM : R. G. AVACHAT, J.

DATE : 28th JANUARY, 2021

PER COURT :

Heard Mr. Sant, learned counsel for the petitioner and Mr. Rane, learned counsel for respondent No.2. The challenge in this Writ Petition is to the order dated 31/1/2018, passed by 2nd Jt. Civil Judge, Junior Division, Amalner below application Exh. 76 in Regular Civil Suit No.129/2012, by which the said application came to be rejected.

2. The application was moved by the defendant No.1, requesting the Court to exhibit certain documents described in list Exh.67. In all 46 documents have been detailed in the said list. In case of certified copies of public documents in the

nature of 7/12 extract, mutation entries etc., the trial Court ought to have marked them exhibits. The trial Court is, therefore, directed to do the needful in this regard.

3. So far as regard the private documents in the nature of adoption deed, sale deed etc. are concerned, the defendant – applicant may lead evidence in respect of those documents. It is for the trial Court to exercise jurisdiction under Section 90 of the Evidence Act as to whether a presumption of due execution is to be given to those documents. The trial Court may do so at an appropriate stage and if trial Court is not inclined to mark them exhibits in view of Section 90 of the Evidence Act, the defendants be given opportunity of producing evidence in proof of those documents. It may be mentioned that mere exhibiting a document, does not amount to proof of contents thereof.

4. With the aforesaid directions, the Writ Petition stands disposed of. The trial Court is directed to decide the suit at the earliest, preferably within a period of 12 months from the date of receipt of copy of this order.

**(R. G. AVACHAT)
JUDGE**

fmp/-