

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.650/2021

Laxman Anand Muley (Dead), thr. LRs Abhijeet Sharadchandra Mulay and ors

..VS..

Vijay Shridhar Alsi

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

Court's or Judge's Order

.....
Shri U.J.Deshpande, Counsel for Petitioners.

CORAM : V.M.DESHPANDE J.
DATED : FEBRUARY 02, 2021.

1. Heard learned counsel Shri U.J.Deshpande for petitioners.
2. By this writ petition, petitioners are challenging judgment and order dated 19.12.2020 passed by learned Civil Judge Senior Division, Akola below Exhibit-219 in RCS No.456/1978 whereby learned Judge allowed the application filed on behalf of the plaintiff and permitted the plaintiff to file deposition and documents withdrawn from RCS No.378/1999.
3. The present petitioner is defendant in RCS No.456/1978 and plaintiff in RCS No.378 1999 (Special C.S.No.26/1981. These suits tried together vide order dated 27.2.1989 on Exhibit 38 in RCS No.378/1999. Common evidence was directed to be recorded in RCS No.378/1999 at Exhibit-65 and certain documents were also proved. The plaintiff filed application Exhibit-219 below which the impugned order is passed for withdrawing deposition and proved documents from RCS No.378/1999 and placing the same in RCS No.456/1978. The said is allowed.

4. Learned counsel Shri U.J.Deshpande for petitioners, submits that RCS No.456/1978 was fixed for judgment and at that time application Exhibit-219 was filed. He submits that such recourse is not open.

I am afraid that the said submission can accepted. Till judgment is pronounced, it is always open for the Court to allow parties to adduce evidence by filing documents on record if otherwise they are entitled for the same for doing justice.

5. After hearing learned counsel Shri U.J.Deshpande for petitioners, I see no merit in this writ petition. The writ petition is, therefore, dismissed. However, at the same time since the case is fixed for judgment and if counsel for the plaintiff in RCS No.456/1978 is placing reliance on documents which are allowed to be placed on record by passing order below Exhibit-219, the petitioner will also have liberty to file further notes of argument or submit the case orally.

With this, the writ petition is dismissed. No costs.

JUDGE

!! BRW !!

...../-