

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

**WRIT PETITION NO.800 OF 2020**

Shasibhai Jethalal Mehta and others

**...Versus...**

Dr. Subhash Shankarrao Saoji and others

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

Shri J. B. Gandhi, Advocate for petitioners.

Shri Kalyan Chiwarkar, Advocate h/f Shri A. Parchure, Advocate for respondent nos.1 to 5.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 27/08/2021**

The present petition, challenges the order dated 20.12.2019, passed below Exh.152 by the learned Trial Court accepting the objection filed by the plaintiffs regarding executing the sale deeds dated 12.10.1945, 25.6.1946, and the will dated 31.12.1983 and the measurement sheet filed below Exh.118. The learned Trial Court, insofar as the will is concerned has rightly observed that as per the requirement of law as contained in Sections 68 and 69 of the Indian Evidence Act, the attesting witness has to be examined for proving the will which position cannot be doubted with. Insofar as the measurement Map is concerned it has been

rightly observed that only the Surveyor could exhibited the same.

2. Insofar as sale deeds dated 12.10.1945 and 25.6.1946, are concerned, merely because they are the documents more than 30 years old, that by itself would not dispense with the proof of the documents as required by law. The presumption under Section 90 of the Evidence Act, is a limited presumption of the nature as indicated therein. Admittedly, these documents are not the originals, but certified copies as found by the learned Trial Court, the contents of which, are required to be proved in law by the mode as permissible under the Evidence Act.

3. In that view of the matter, no infirmity can be found in the impugned order of the learned Trial Court. The petition therefore, is without any merit and is accordingly dismissed.

**JUDGE**