

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.9588 OF 2017**

**VYANKAT GANU LONDHE AND OTHERS  
VERSUS  
MEERABAI SUBHASH WAGAJ AND OTHERS**

...  
Mr. V. D. Gunale, Advocate for the Petitioners.  
Mr. T. M. Venjane, Advocate for Respondent No.1.  
...

**CORAM : SANDEEP V. MARNE, J.  
DATED : 29<sup>th</sup> NOVEMBER, 2022.**

**PER COURT:-**

1. By this petition petitioners assail order dated 29.11.2016 passed by the 3<sup>rd</sup> Joint Civil Judge, Senior Division, Latur thereby allowing plaintiffs' application for discarding the evidence of defendants' witness Shri. Subhash Ramchandra Gore.

2. The application for discarding the evidence of witness was filed by plaintiffs essentially contending that the witness was sought to be examined only for the purpose of proving the document being partition deed. That partition deed was required to be compulsorily registered and in absence of registration, the document was inadmissible in evidence. It was, therefore, contended in the application that, since the document itself is inadmissible in the evidence, defendants cannot be permitted to lead evidence of the witness.

3. On the other hand defendants disputed the position whether partition deed was required to be compulsorily registered or not. Additionally it was contended on behalf of defendants that the evidence of witness Shri. Subhash Ramchandra Gore was not

restricted to the execution of partition deed to cover other facts and circumstances as well.

4. Considering the above position, I am of the view that, the Trial Court has committed an error in allowing the application of plaintiffs at Exhibit-111. Whether the document is compulsorily required to be registered or not or whether it is admissible in evidence or not is altogether different issue. The same can be decided independently. However, there was no reason for the Trial Court to discard the evidence of defendants' witness.

5. Accordingly, the writ petition is allowed. The order dated 29.11.2016 passed by 3<sup>rd</sup> Joint Civil Judge, Senior Division, Latur at Exhibit-111 in R.C.S. No.522/2012 is set aside. The plaintiffs' application at Exhibit-111 stands rejected. It is however clarified that the Trial Court shall independently examine and decide whether the partition deed is admissible in the evidence or not. No opinion is expressed in that regard. The suit is of the year 2011. The Trial Court is requested to expedite the hearing of the suit and make an endeavour to decide the same as expeditiously as possible and preferably within a period of six (06) months from today. There shall be no order as to costs.

**(SANDEEP V. MARNE)**  
**JUDGE**