

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

WRIT PETITION NO.9910 OF 2022

**SYED RASHIDODDIN SYED FAKRUDDIN ALIAS MUJAFFARODDIN
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR AND
OTHERS**

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Advocate for Petitioner : Mr. S. R. Deshmukh, Sr. Advocate i/b
Mr. D. R. Deshmukh a/w Mr. Shriram V. Deshmukh
AGP for Respondents – State : Mr. S. W. Munde

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 27th SEPTEMBER, 2022

PER COURT :

1. Being aggrieved by order dated 17/06/2022, passed by learned Joint Civil Judge, Senior Division, Ambajogai, below Exhibit-45 in Regular Civil Suit No.282/2020, petitioner has filed present petition under Article 227 of the Constitution of India.

2. By the impugned order, trial Court has permitted respondent/defendant No.3A to lead secondary evidence to prove Kaul Nama/lease deed dated 13/09/2006. Trial Court has accepted contention of respondent/defendant No.3A that though he issued notice to concerned revenue officer to produce said Kaul Nama, it is not produced and therefore, permitted him to lead secondary evidence as per Section 65 of the Indian Evidence Act, 1872. It is not in dispute that petitioner himself has sought a declaration that

the said lease deed/Kaul Nama dated 13/06/2006, be declared null and void. In that view of the matter, there is no error in the order passed by trial Court permitting defendant No.3A to lead secondary evidence of the said lease deed.

3. Petitioner is entitled to assail the relevancy and admissibility of the secondary evidence, at the time of final arguments.

4. There is no illegality or perversity in the impugned order. Writ petition being devoid of merits is dismissed. Taking into consideration the fact that petitioner is a retired army man, the suit is expedited.

(NITIN B. SURYAWANSHI, J.)