

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

WRIT PETITION NO. 12696 OF 2022

Vishwanath Narayan Patil
and another

.. Petitioners

Versus

Vasant Janga Mali and others

.. Respondents

Shri Subodh P. Shah, Advocate for the Petitioners.

Shri Amit S. Savale, Advocate for the Respondent Nos. 2 to 4.

CORAM : SANDEEP V. MARNE, J.

DATE : 13TH DECEMBER, 2022.

FINAL ORDER :

. Petitioners are aggrieved by the order of the Trial Court dated 27.09.2022 recorded during the course of cross examination of the plaintiffs marking some of the documents and permitting the plaintiffs' advocate to show the same to the plaintiffs.

2. It is true that by order dated 23rd August, 2019, the Trial Court had permitted the plaintiffs to adduce secondary evidence in respect of documents covered by notice dated 18.08.2017. However, by grant of such permission to lead secondary evidence in respect of those documents, what is dispensed with is only production of originals thereof. The requirement of leading evidence to prove those documents was not dispensed with. It is therefore, clarified that by grant of permission to lead secondary evidence in respect of documents covered by notice dated

18.08.2017, requirement of proving those documents has not been dispensed with and the plaintiffs will have to prove those documents so that they can be read into evidence.

3. Learned counsel for respondent Nos. 2 to 4 submits that the plaintiffs have already discharged the burden of proving the documents (of which secondary evidence is permitted by the Court) through the evidence adduced by the plaintiff No. 1. This is something which is for the Trial Court to consider and decide. Therefore, this order shall not be construed to mean that the plaintiffs have failed to prove the documents in respect of which permission is granted to lead secondary evidence. The Trial Court will decide that issue depending on the exact evidence that is produced before it.

4. With above observations, the writ petition is disposed of. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

bsb/Dec. 22