

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14537 OF 2019

BARKYA RESHMA GAVIT DIED SAJUBAI BARKYA GAVIT AND
OTHERS
VERSUS
RAMABAI DHEDYA GAVIT AND ANOTHER

...

Advocate for Petitioners : Mr. Deepak Chaudhari
Advocate for Respondents No. 1 and 2: Mr. Ajeet Kale

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th JUNE, 2022

ORDER :

1. The petitioners are aggrieved by the order passed below Exhibit-72 in Regular Civil Suit No. 36/2012 by the learned Civil Judge Junior Division, Navapur.

2. During the cross examination of defendant No. 2, the plaintiffs filed application Exhibit-72 seeking production of certain documents and exhibiting them. The documents sought to be produced by the petitioners are public documents in the form of certified copies of the plaint of the suit filed by the defendants against the plaintiffs, filed prior to the present suit and a copy of a will deed. The application is allowed by the impugned order.

3. Admittedly, the documents sought to be produced by the plaintiffs are public documents in the form of certified copies of plaint etc. Even the defendants have referred to these documents in their written statement.

4. The defendants have denied relationship of plaintiffs with deceased Dhedya Motya Gavit. During the cross examination of plaintiff No. 2, questions were put to her as to whether she has any document to prove her paternity. The plaintiff, therefore has produced these documents and the Trial Court has rightly permitted the same.

5. The Trial Court has observed in the impugned order that proper stage of filing of documents by the plaintiffs is over and the evidence of defendants is going on. However, considering the peculiar facts the Trial Court by a reasoned order allowed the plaintiffs to produce documents, since all the documents are public documents. Since the documents are in the form of certified copies, the Trial Court has rightly exhibited them. However, the Trial Court is justified in rejecting the prayer of the plaintiffs for exhibiting will deed as the will deed, will have to be proved in accordance with law. Certified copies produced

by the plaintiffs are exhibited by the Trial Court, however, prayer of the plaintiffs for exhibiting the will deed is rejected, stating that the will deed will have to be proved in accordance with law.

6. The Trial Court has passed a well reasoned order. There is no illegality or perversity in the impugned order. No case is made out by the petitioners to warrant interference in the extra ordinary writ jurisdiction. The writ petition is, therefore, dismissed.

7. The defendants, if so advised, are at liberty to file application seeking recall of plaintiffs for further cross examination in view of filing of these documents. If such application is filed, the Trial Court to consider the same on its own merits.

[NITIN B. SURYAWANSHI, J.]