

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

10 WRIT PETITION NO.18 OF 2019

- 1) Sayyed Adamsharif S/o Razzaksaheb,
Age 63 years, Occ. Agril.,
R/o. Venkatesh Nagar, Latur
Tq. & Dist. Latur.
- 2) Badrunissa W/o Adamsharif Sayyed,
Age 43 years, Occ. House-hold,
R/o. Venkatesh Nagar, Latur
Tq. & Dist. Latur.

...Petitioners
(Orig. Plaintiffs)

VERSUS

- 1) Dattu S/o Gyanoba Bansode,
Age 55 years, Occ. Agril.,
R/o. Bansode Nagar, Ambajogai Road,
Tq. & Dist. Latur.
- 2) Meena W/o Dattu Bansode,
Age 48 years, Occ. House-hold,
R/o. Bansode Nagar, Ambajogai Road,
Tq. & Dist. Latur.
- 3) Abdul Salim Mohammad Adam Shiddiki,
Age 56 years, Occ. Agril.,
R/o. Bansode Nagar, Ambajogai Road,
Tq. & Dist. Latur.
- 4) Raghunath S/o Shriniwas Bahite,
Age 74 years, Occ. Teacher,
R/o. Nawandar Galli, Latur.
Tq. & Dist. Latur.
- 5) Sham S/o Pralhad Akangire,
Died through its L.Rs.
- 5A) Shobha W/o Sham Akangire,
Age 49 years, Occ. Housewife,
- 5B) Abhishek S/o Sham Akangire,
Age 30 years, Occ. Agri./Business,
- 5C) Radha D/o Sham Akangire,
Age 24 years, Occ. Education,
All R/o Chandani Chouk, Renapur
Tq. Renapur Dist. Latur.
- 6) Shishikant S/o Pralhad Akangire,
Age 50 years, Occ. Agri.,

- R/o. Renapur, at Present residing
At Mali Galli, Latur, Tq. & Dist. Latur.
7. Eknath S/o Venkatrao Akangire,
Age 47 years, Occ. Agri.,
R/o. Renapur, Tq.& Dist. Latur.

...Respondents
(Orig. Defendants)

...
Advocate for Petitioners : Mr. Shivkumar K. Mathpati
Advocate for Respondent No.1 : Mr. Mehul V. Navandar
Advocate for Respondent No.3 : Ajay T. Kanwade
Advocate for Respondent Nos.6 & 7 : Mr. Chaitanya C. Deshpande

...
CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 21st MARCH 2022

JUDGMENT :

1. Rule.
2. Rule returnable forthwith. Matter taken up for final disposal at the stage of admission with the consent of the learned counsel for the parties.
3. A short issue which needs to be determined is as to whether the learned Civil Judge was right in rejecting an application moved by the petitioners seeking to exhibit registered sale deeds, by the impugned order ?
4. It is the contention of the petitioners that they had purchased the suit property from it's erstwhile owner Bhagwat Bansode by register sale deeds bearing No.1631 of 1991 and 1632 of 1991. Defendants No.1 to 7 have admitted the execution of the sale deeds. The

petitioners had tendered the sale deeds on record in the suit. However, it could not be exhibited due to inadvertence. Defendant No.3 in his written statement had admitted the execution of the sale deeds. However, defendant Nos. 5 to 7 strongly objected giving exhibit to the sale deeds on the ground that despite an opportunity, the petitioners did not make any attempt to get it exhibited, and proved, and now it cannot be exhibited, when the matter is finally closed for judgment after taking on record the written arguments of the parties.

5. The impugned order rejecting the application is *ex-facie* illegal and is in gross ignorance of the basic provisions of law. The reason is that during cross-examination of the petitioners on behalf of defendant Nos.4 to 6, it has been reiterated and clarified that the sale deeds in question have been duly executed by its vendor and it also gives the description of the suit properties. The moment defendants have referred the sale deeds in cross-examination of the petitioners, learned Civil Judge ought to have exhibited the same then and there in which the judge has failed. It is quite surprising to note that though in the impugned order, the learned judge has referred the case law rightly pressed into service on behalf of the petitioners, failed to apply its ratio.

*Kanwarjitingh R. Chadha Vs. Sahebrao Gajanan Salve
2014(7) Bom.C.R. 838, wherein it has been observed that
when there is a specific cross examination and admission*

given by the plaintiff not only on point of execution but also about contents of Will, said document can be exhibited.

6. The corollary of the aforesaid discussion is that the impugned order needs to be quashed and set aside and as such it stands quashed. Consequently, the following order is passed.

ORDER

- (i) The petition is allowed.
- (ii) The impugned order dated 9th October 2018 passed by the Civil Judge, Senior Division, Latur below Exh.222 in R.C.S. No.630 of 2005 is quashed and set aside.
- (iii) The trial court shall mark an exhibit upon the sale deed in question.
- (iv) The trial court shall proceed further in accordance with law to dispose of the suit on merits within a period of two weeks from today.
- (v) Rule is made absolute in above terms.
- (vi) Petition stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]

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