

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO.850 OF 2022

IN
SECOND APPEAL NO.86 OF 2022

Surendrakumar s/o Dasaram Basene and others

Vs.

Smt. Indravatibai @ Indrabai w/o Basantlal Nagpure through Power of Attorney
holder Tritraj s/o Basantlal Nagpure

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. Waghmare, Advocate h/f Mr. O. K. Masurke, Advocate for appellants.
Mr. M. R. Joharapurkar, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/09/2022

1. This is an application under Order 41 Rule 27 of CPC for production of additional evidence. It is contended that consent letter was executed by the respondent no.1, whereby she had relinquished her right in the suit property for consideration. Since the document was not available earlier but was noticed on 14.7.2022, when due to rain the house of Dasaram collapsed and the appellants have found a steel box wherein the consent letter was contained the same was sought to be produced. It is submitted, that since the consent letter dated 10.7.2000 has a material bearing upon the matter in issue, requisite permission order under Order 41 Rule 27 needs to be granted.

2. Mr. Joharapurkar, learned counsel for the respondent opposes the submission, and contends that a perusal of the document would indicate that though it is

styled as consent letter, in fact it is a deed of relinquishment for consideration and being an unregistered document, would not assist the decision of the matter in any way whatsoever.

3. A perusal of the document would indicate, that though it is styled as a consent letter, it is a deed of relinquishment of the rights of the respondent in immovable property for consideration. The same is not a registered document, as is required under Section 17 of the Indian Registration Act, considering which, even if permission is granted, as sought for, it would be of no use, considering that the document cannot be read in evidence for the purpose for which it is being sought to be introduced. The further contention of the learned counsel for the appellants is that the document can be used for collateral purpose to determine starting point of limitation is also misconceived for the reason that the document does not indicate a demand being made for partition. That being the position, in my considered opinion, no fruitful purpose would be served by granting the application, considering the same, is rejected. No costs.

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1. List the matter day after tomorrow i.e. on 15.9.2022.

JUDGE