

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

WRIT PETITION NO.8062/2019

Laxmi Jewellers, Karanja, Through its proprietor Shri Mangesh S/o Rampalji Kadel and another

...Versus...

Shri Shwetambar Jain Mandir, Karanja Tq. Karanja, Distt. Washim Through its below named Trustees

Shri Vijaybhai s/o Umarsi Ladhaya (President) and others

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

Court's or Judge's orders

Shri Nilesh Borkar, Advocate for petitioners
Shri Amol Darekar, Advocate for respondent no.1 (i to vi)
Mrs. H.N. Jaipurkar, AGP for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 17/10/2022

1. Heard Shri Borkar, learned counsel for the petitioners. The petition challenges the order dated 06/11/2019, whereby the prayer for exhibiting the relinquishment-deed dated 24/09/2006 (pg.34) has been rejected on the ground that it is an unregistered document and therefore, cannot be accepted in evidence.

2. Shri Borkar, learned counsel for the petitioners relying upon *Bhaurao s/o Harichand Sahare Vs. Santosh s/o Jairam Sahare and others, 2014 CJ (Bom) 1486* submits that the issue is covered therein and therefore, the impugned order is required to be quashed and set aside and the application exhibiting the document needs to be allowed.

3. Insofar as **Bhaurao** (supra) is concerned, the Court in para 4 has recorded that the document in question was not a deed of relinquishment, but a memorandum recording an oral partition of the ancestral property and therefore, on this ground, has remanded the matter for taking it into consideration. In the instant matter, the document in question is undoubtedly a relinquishment-deed in praesenti and therefore, is squarely covered by the provision of Section 17 (1) (b) of the Registration Act, 1908, as a result of which, under Section 49 (c) of the said Act, the same cannot be received as an evidence of any transaction affecting such property, in view of which, I do not see any reason to interfere in the impugned order. The writ petition is dismissed. No order as to costs.

4. At this juncture, learned counsel for the petitioners seeks two weeks' time to approach the Hon'ble Apex Court.

5. Considering that the petition is of the year 2019 and a stay is operating since 10/12/2019, the interim order dated 10/12/2019 is continued for a period of two weeks more from today.

(AVINASH G. GHAROTE, J.)