

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3031 OF 2023

Janabai Mohanrao Jagtap

...Petitioner

Versus

Anusaya Alias Sulekha Mohanrao Jagtap
And Others

...Respondents

Mr. K.V. Patil, Advocate for the petitioner.

Mr. Santosh Gastgar, Advocate for respondent No. 1.

Mr. R.B. Bagul, AGP for State.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th MARCH, 2023

ORDER :

1. By this petition filed under Article 226 and 227 of the Constitution of India, the petitioner challenges the order passed by learned Civil Judge, Senior Division, Ahmedpur, below Exhibit-69 and 71 in Regular Civil Suit No. 7/2019.

2. Respondent No. 1/original plaintiff filed suit for declaration that she is first legally wedded wife of deceased Mohanrao Jagtap and a direction to defendants No. 1 to 4 to grant family pension to the plaintiff being legally wedded wife. By filing written statement petitioner/original defendant No. 5

resisted the suit and claimed that she is first wife of deceased Mohanrao Jagtap and not the plaintiff.

3. After the evidence in lieu of examination in chief of the plaintiff is filed and the matter was posted for cross examination, the plaintiff has filed application Exhibit-69 seeking permission to produce document i.e. notarized partition deed dated 24.11.2021, to which plaintiff as well as defendant No. 5 are party along with their sons and deceased husband. The Trial Court has allowed the production of said document by order dated 24.01.2022. This order is impugned in the present petition.

4. The petitioner then filed application Exhibit-71 contending that the plaintiff has filed disputed and false partition deed in the Court. The production of said document is allowed by the Trial Court without obtaining say of the petitioner. The say of the petitioner is necessary in the interest of justice. Said application is rejected by the Trial Court. This order is also impugned in the present petition.

5. Heard the learned advocate for the petitioner, and learned advocate for respondent No.1 and learned AGP for State.

Perused the grounds raised in the petition, annexures thereto and the impugned order.

6. By allowing application Exhibit-69 the Trial Court has only allowed production of partition deed. No prejudice is likely to be caused to the petitioner by production of said partition deed. The petitioner is at liberty to challenge the admissibility and relevancy of said document during trial. The petitioner is also entitled to lead evidence to prove her contention that said document is bogus.

7. There is no illegality or perversity in the impugned orders passed by the Trial Court. No case is made out by the petitioner to exercise of extra ordinary writ jurisdiction. The writ petition being devoid of merit is dismissed. No costs.

8. Considering the fact that the suit is pending from 2019, the suit is expedited.

[NITIN B. SURYAWANSHI, J.]