

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

902 FIRST APPEAL NO.1117 OF 2006  
WITH FA/1708/2022 WITH CA/10733/2022 IN FA/1708/2022  
WITH CA/12172/2022 IN FA/1117/2006 WITH CA/13989/2021 IN  
FA/1117/2006

SARJAR HARJEETSINGH SARDAR TIRATHSINGH SWAHNEY  
VERSUS  
SARDAR PARAMJEETSINGH SARDAR TIRATHSINGH SWAHENY  
AND ANR

...  
Advocate for Appellant : Party In Person  
AGP for Respondent- State: Mr. S. S. Dande  
Advocate for Respondent No.2 : Mr. A. R. Rathod  
....

**CORAM : SANDIPKUMAR C. MORE, J.**  
**DATED : 15/06/2023.**

**P. C. :**

**A) ORDER IN FIRST APPEALS :**

1. Print is dispensed with.
2. By consent, the appeals are fixed for final hearing on 26<sup>th</sup> July 2023.

**B) ORDER IN CIVIL APPLICATION NO.12172 OF 2022 :**

1. Heard rival submissions. The applicant - appellant in First Appeal No. 1117 of 2006 is seeking direction for calling the original Will dated 16.11.1992 and Vakalatnama dated 16.07.1996 filed in MARJI No. 218 of 1996 at Sr. No. 52 and 6

respectively from the record and proceeding of R.C.C. No. 1361 of 2003.

2. The applicant/appellant in person submits that the record of aforesaid MARJI application was called in R.C.C. No.1361 of 2003 for deciding the same, wherein the present respondent No.1 was convicted by the concerned Magistrate. However, it seems that thereafter the appellate Court i.e. the learned Additional Sessions Judge-5, Aurangabad had acquitted the respondent No.1 against which a Criminal Revision No. 2018 of 2017 was preferred by the present applicant, but it was also dismissed.

3. The applicant is now claiming that the aforesaid Will and Vakalatnama which was the part of record and proceeding of the aforesaid MARJI remained in the record and proceeding of R.C.C. No.1361 of 2003 and considering the technical aspect, the same are required here to decide this First Appeal.

4. The learned Counsel for the respondent submits that he is not aware about the fact of the aforesaid Will and Vakalatnama being remained with record and proceeding of the aforesaid R.C.C. However, since the aforesaid MARJI proceeding is challenged in this appeal, the Principal District Judge, Aurangabad is directed to send the aforesaid Will as well as Vakalatnama to this Court, if it is found that the same are in the

record and proceeding of aforesaid R.C.C. No. 1361 of 2003 by retaining the certified copies of the same in that record and proceeding till 26<sup>th</sup> July 2023.

5. The civil application is disposed of.

( SANDIPKUMAR C. MORE, J. )

VS Maind/-