

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9005 OF 2018

Kalavva Shanranappa Patane & Anr.

...Petitioners

Vs

Revappa Andappa Surapure & Ors.

...Respondents

...

Mr. I. M. Khairdi, a/w. Mr. Sachin P. Patil for Petitioner.

Mr. Ashok B. Tajane, a/w. Balaji Shinde for Respondent No.1.

...

CORAM: SANDEEP V. MARNE, J.

DATE : JULY 28, 2023.

P.C.:

By this petition Petitioners challenge order dated March 26, 2018 passed by the Civil Judge Junior Division, Akkalkot on application at Exh.113. The application was filed by the Plaintiff for marking of various documents as exhibits. By the impugned order, the Trial Court allowed the application for marking various documents as exhibits except one document viz. sale-deed No.350 of 2018. The Trial Court permitted plaintiffs to lead the evidence to prove the sale-deed.

2. The learned counsel appearing for the Petitioners would submit that the Plaintiff has already closed her evidence and had failed to prove said sale-deed. By virtue of the impugned order dated March 26, 2018, Plaintiff has secured another opportunity to adduce evidence, which is impermissible in Law. He would submit that the Trial Court has granted something which was

not even asked for by him.

3. The impugned order was passed on March 26, 2018 and by now substantial period has passed. It appears that the Respondent No.1 has expired during pendency of the present petition. His legal heirs are not brought on record. The learned counsel for the Petitioner would submit that no instructions have been received to bring on record legal heirs of the Respondent No.1.

4. Mr. Tajane the learned counsel for Respondent No.1 would submit that the trial in the suit has substantially progressed and the suit is closed for arguments. In that view of the matter, no purpose would be served in deciding present petition on merits. The impugned order must have already been implemented by affording an opportunity to the Plaintiff to lead evidence in respect of sale-deed.

5. Considering the long passage of time from the date of passing of order and the fact that the Petition has abated *qua* Respondent No.1, Writ Petition is disposed of without any order as to costs.

(SANDEEP V. MARNE, J.)

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