

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

WRIT PETITION NO.1912 OF 2022

Anand S/o Krushnarao Nalamwar and others .Vs. Bandu S/o Jangluji Dambhare and
others

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

Court's or Judge's Order

Shri M.A. Deo, Adv. h/f Shri Rohit Joshi, Adv. for the petitioners.
Shri A.A. Dhawas, Advocate for the respondent No.3.

CORAM : ANIL S. KILOR, J.

DATED : 28/03/2023

1. Heard.

2. In the present writ petition the challenge is raised to the order passed below Exh.248 dated 04.02.2022 passed by the Civil Judge Senior Division, Chandrapur, allowing the application preferred by plaintiff praying for exhibiting the documents filed vide list Exhibit-234, 246 and 247.

3. Shri Deo, learned counsel for the petitioner submits that mode adopted by the learned trial Court in exhibiting the document is not permissible. He has argued that though there is a presumption under Section 79 of the Evidence Act, 1872 about the public documents, however such presumption is rebuttable.

4. Considering the law laid down by this Court in the case of *Hemendra Rasiklal Ghia vs. Subodh Mody*¹, I am of the opinion that, the petition can be disposed of with liberty to the petitioner to raise the said objection at the stage of hearing of the suit. Hence, I pass the following order:

5. The writ petition is **disposed of** with liberty to the petitioner to raise the objection to the exhibition of documents filed vide list Exhibit-234, 246 and 247, at the stage of hearing of the suit, which shall be considered and decided by the learned trial Court according to the law.

JUDGE