



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

WRIT PETITION NO. 5777 OF 2023

Abdul Wasik s/o. Abdul Latif
VS.
Hidayat Ulla Khan Barkat Ulla Khan Patel

Office Notes, Office Memorandum of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.R.Deshpande, Advocate for the petitioner.
Mr. H.S.Chawhan, Advocate for respondent

CORAM : AVINASH G. GHAROTE J.
DATED : 20th DECEMBER 2023

The petition challenges the order dated 25/08/2023 passed below Exh.639 and application filed by the present petitioner for a direction to the respondent, who is reporting trustee to place the original documents below Exh.61 to 555 on record. The application has been rejected by the impugned order dated 25/08/2023(page 259), on the ground that the matter is fixed for final arguments.

2. Mr.A.R.Deshpande, learned counsel for the petitioner by inviting my attention to the affidavit in lieu of oral evidence filed by the respondent/reporting trustee submits that the affidavit was filed on 30/01/2019 and without the reporting trustee entering into the witness box, the documents, Exh.61 to 555 have been marked as exhibits for which he relies upon the order sheet

dated 13/05/2019 (page 75). He therefore, submits that without verifying the originals or the respondent entering into the witness box, the documents have been exhibited which is a course of action impermissible in law, on account of which the application at Exh.639 was required to be filed, in order to verify authenticity of the documents below Exh.61 to 555.

3. Mr.H.S.Chawhan, learned counsel for the respondent supports the impugned order by contending that such an application at the stage of final arguments has rightly been rejected.

4. Though an application below Exh.43 came to be filed by the respondent for filing the originals on record and Exh.47 for verification of the said documents on record with the originals, it is an admitted position as admitted by learned counsel Mr.Chawhan for the respondent that there is no endorsement on Exh.61 to 555 either by the Bench Clerk or the Nazir of the Court that he has compared the copies of the said documents on record with originals and certified them as true copies and the originals are then returned back to the reporting trustees/respondent. In absence of this position, the documents were therefore, required to be produced in original/certified copies so that they would be considered by the Court.

5. In that view of the matter, the impugned order is hereby quashed and set aside and the

application below Ehx.639 is allowed by directing the respondent to produce on record the originals/ certified copies of the documents below Exh.61 to 555. The petition is accordingly allowed, in above terms.

JUDGE