



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

WRIT PETITION NO.7313 OF 2022

Shyam Hasanrao Deshmukh .Vs. Sau. Shobha Hasanrao Deshmukh 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 P.S. Chawhan, Advocate for petitioner.

Shri M.R. Kavimandan, Advocate for respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : 16/10/2023

1. The learned trial Court vide order below Exh.99 dated 12.10.2022 granted permission to lead secondary evidence of Gift-Deed dated 17.07.1987 which according to the petitioner is not registered document and which needs to be compulsory registered as per Section 123 of the Transfer of Property Act, 1882 and Section 17 (1)(a) of the Registration Act, 1908.

2. The learned trial Court rejected the said objection and allowed the application permitting the defendant No.2 to lead secondary evidence. However, the last four lines of the impugned order are relevant and important, which reads thus:

“... However, by way of clarity it is made clear that its evidential value, effect or registration etc. will be considered at the relevant time. The order is pronounced in open court after calling both the parties and their Advocates.”

3. From the above observation recorded by the learned trial Court, it is evident that, the learned trial Court has kept open the issue relating to evidential value of the said document, effect of registration etc.

4. Thus, the petitioner has an opportunity to raise all the points showing how the said document is not admissible in the evidence. The learned trial Court has observed that such points will be considered at the relevant time.

5 Thus, I have no hesitation to observe that the objection about the admissibility of the said document is not yet decided finally by the trial Court.

6. In the circumstances, I am of the opinion that, the petition is premature and accordingly, it is **disposed of**.

JUDGE