



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 470 OF 2024 IN
SECOND APPEAL NO. 15 OF 2021

Meenakshi @ Maina Dagdu Ukarande & others .. Applicants

Versus

Mangal Vinayak Kalekar & others .. Respondents

Mr. P. B. Rakhunde, Advocate for the applicants.

Mr. S. N. Patne, Advocate for respondent No. 1.

CORAM : R. M. JOSHI, J.

DATE : 30th JANUARY, 2024.

PER COURT :

1. This application is filed to permit applicants i.e. original defendants to place on record certified copy of written statement filed by plaintiff Mangal in Regular Civil Suit No. 2/1990 wherein specific plea was taken by this plaintiff that Nilkanth, father of plaintiff, had no concern with the suit land.

2. Learned counsel for applicants submits that the said document could not be placed on record for want of knowledge of the appellants.

3. Prima facie, certified copy placed on record indicates that the written statement was filed by plaintiff (defendant No. 3) in

Regular Civil Suit No. 2/1990 raising specific plea that the suit properties mentioned therein were not ancestral properties of Nilkanth. In the instant suit i.e. Regular Civil Suit No. 9/2006, exactly contrary stand is sought to be taken by plaintiff against her own admission. The question about the relevancy of this evidence would be determined on the basis of pleadings of parties, as evidence sans pleading needs to be kept out of consideration. Keeping this issue open for consideration at relevant time, application is decided.

4. Having regard to the fact that it is a specific case of appellant No. 1 that she did not have knowledge of the said proceeding i.e. Regular Civil Suit No. 2/1990 and also in view of fact that written statement is relevant and essential for decision of the present case, application deserves to be allowed. Hence, application stands allowed in terms of prayer clause 'B'.

(R. M. JOSHI)
Judge

dyb