

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2675 OF 2023

Kisan Maruti Dhavan & Anr.

.. Petitioners

Versus

~~Laxman Bala Bhide~~

(since deceased) through Legal Heirs

Kalpna Balu Bhide & Ors.

.. Respondents

.....

- Mr. Harish Pawar a/w Mr.Pawan Tiwari i/by Mr. V.N. Naik & Co for
Petitioners

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 14, 2024

P. C.:

1. Heard Mr. Pawar, learned Advocate for Petitioners. Perused the impugned order.

2. Impugned order dated 23.08.2022 is required to be interfered with. A document which is a certified copy of the registered Gift Deed is required to be marked as Exhibit on the Application made by Plaintiffs (Petitioners herein) before the learned Trial Court. That Application has been rejected on the premise that when the Plaintiffs had examined the production witness from the Sub-Registrar's Office when he came for production of the said document, at that time reference was made to that document but steps were not taken immediately thereafter by the Plaintiffs to mark that particular document as an exhibit. This cannot be a reason for rejection of the

Application filed by Plaintiffs since once the said document finds its mention in the pleadings of the Plaintiffs in the suit plaint and the Plaintiffs have produce a certified copy, such certified copy is required to be exhibited in evidence under the provisions of Sections 62 and 64 of the Indian Evidence Act, 1872. The impugned order is therefore unsustainable. It is quashed and set aside. Certified copy of the Registered Gift Deed dated 16.05.1955 shall be taken on record and marked as exhibit in evidence by keeping all contentions of the parties i.e. Plaintiffs and Defendants expressly kept open to maintain the challenge to the contents of the said document strictly in accordance with law.

3. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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