



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

WRIT PETITION NO.1378 OF 2023

Mahadeo S/o Vishwanath Ghule .Vs. Ganesh S/o Mahadeo Ghule 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 J.B Kasat, Advocate for petitioner.

Shri K. Khetan, Adv. h/f Shri R. Siddharth, Adv. for respondent No.5.

CORAM : ANIL S. KILOR, J.

DATED : 01/03/2024

1. In this writ petition a challenge is raised to the order below Exh.539 dated 08.12.2021 passed by the trial Court in Regular Civil Appeal No.70 of 1996, observing that, the order below Exh.387 be kept open for the parties to adopt their own course. It is further observed that, those documents which were sought to be exhibited by way of the application below Exh.387 were not tendered in to evidence by the defendant No.1. The defendant No.1 has adduced his evidence long back in the light of his affidavit-in-chief at Exh.181. The contention of the defendant No.4 about the providing and disproving of documents so exhibited and the mode of proof, more specifically mentioned in the present application, can be taken care of by way keeping open the aspect of evidential value of the documents. Accordingly, the learned trial Court rejected the application moved by

the respondent No.5 to exhibit the document vide order dated 08.12.2021.

2. The learned counsel for the respondent No.5/defendant No.4 filed an undertaking dated 27.02.2024, stating therein that the respondent No.5 undertakes to not delve into the evidential value of the documents which were exhibited by virtue of order passed below Exh.387 in RCS No.70 of 1996 before the learned Civil Judge, Junior Division, Darwaha at the time of final argument.

3. In that view of the matter, the application Exh.539 has itself become infructuous as it does not survive. Accordingly, the impugned order dated 08.12.2021 is hereby quashed and set aside.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE