



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

WRIT PETITION NO. 7175/2018

Jitesh Shamlalji Yadav & Ors. Vs. Sandeep S/o Indrajeet Suri & Ors.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.A. Markandewar, Advocate for petitioners
Mr. S.P. Agrawal, Mr. Ayush Sharma, Mr. Virat Mishra, Advocates for Respondent Nos. 3 and 4

CORAM: BHARAT P. DESHPANDE, J.

DATED : 4th MARCH, 2024

Heard learned counsel for the petitioners.

2. The present petition is filed challenging the impugned order passed by the learned trial Court, whereby a prayer of the respondents / plaintiffs is allowed for leading secondary evidence, in connection with the sale deed.

3. The learned counsel for the petitioners would submit that if the respondents / plaintiffs clarify about the documents i.e. Annexure 'D' or Annexure 'E', which would be tendered in the Court as a secondary evidence, the purpose would serve so that the petitioners be able to raise necessary objections at the time of tendering of such document in the evidence.

4. The learned counsel for the respondent Nos.3 and 4, on instructions, submits that the document at Annexure 'D', which contains necessary details and signatures of the parties will be placed in the evidence by way of secondary evidence. He submits that this document is clarified in the impugned order.

5. The record shows that the original sale deed dated 21/12/2006 is not traceable and accordingly the plaintiffs applied for permission to lead secondary evidence. The learned trial Court recorded in para 2 that photo copy of the agreement contained signatures of the parties. This is the document which the plaintiffs are desirous of producing secondary evidence.

6. Considering the above clarifications, the petition could be disposed of by keeping liberty of the petitioners open to raise necessary objections when the document is tendered in the evidence before the learned trial Court.

7. In view of the above observations, the respondents are permitted to place Annexure 'D' i.e. the photo copy of the sale deed containing the details and signatures for the purpose as secondary evidence. However, it is clarified that the right of the petitioners to raise objections at the time of

producing of such document is kept open. The petition stands disposed of in the above terms. No costs.

8. Civil Application, if any will not survive.

(BHARAT P. DESHPANDE, J.)

MP Deshpande