



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 2384 OF 2024

Baban Rangnath Davkha And Others

VERSUS

Anjabapu Bhau Davkhar And Others

...

Mr. Satyajit S. Bora, Advocate for the Petitioners

Mr. Amol K. Gawali, Advocate for Respondent Nos.1 to 9.

...

CORAM : ROHIT W. JOSHI, J.

DATED : 22th JULY 2025

PER COURT :-

1. The present petition takes exception to order dated 11.01.2024 passed by the learned 2nd Joint Civil Judge Junior Division, Ahmednagar on application at Exhibit-119 in Special Civil Suit No.24 of 2020 whereby permission to lead secondary evidence with respect to certified copy of the Will Deed of the year 1952 is refused by the learned Trial Court.

2. In view of judgment of this Court in the matter of *Shaikh Aftab Ahmed and Ors. Vs. Bhimrao and Ors.* reported in *Manu/MH/2743/2021* it is now well settled that in order to make secondary evidence admissible, party relying on the same has to lead foundational evidence. The application for seeking permission to lead secondary evidence filed by the petitioner is therefore misconceived. The petition is therefore dismissed with liberty to the petitioners to lead additional evidence with respect to admissibility of secondary evidence.

3. Needless to mention that in the event the petitioners lead such evidence the respondents will have right to cross-examine witnesses of the petitioners on the said aspect.
4. With these observations, petition is disposed of.

[ROHIT W. JOSHI, J.]