



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4478 OF 2020

Seema Sunil Kshirsagar And Others
VERSUS
Madhuri Nagesh Kshirsagar And Others

Mr. S. P. Urgunde, Advocate for Petitioners

CORAM : R. M. JOSHI, J.

DATE : 28 July, 2025

PER COURT :-

1. This petition takes exception to the order passed below Exhibit 26 in Regular Civil Appeal No. 309/2013 where by the application filed by the appellant/original defendant for production of document i.e., photo copy of will dated 09.10.1999 came to be rejected.
2. The First Appellate Court rejected the request for production of photo copy of will on the ground that there is no pleading in the written statement that there exists any such will.
3. Learned counsel for petitioners submits that there is reference to the execution of will in another suit bearing Regular Civil Suit No 152/2007 and Regular Civil Suit No. 40/2000 arising out of a decree passed therein. It is his submission that the petitioner is a lady and, therefore, the application ought

to have been allowed.

4. It is settled position of law that any amount of evidence sought to be placed on record needs to be ignored if there is no pleading to that effect. Admittedly, there is no pleading with regard to the existence of will dated 09.10.1999 or existence of any other will for that sake and in absence thereof question of permitting any party to produce any evidence in this regard does not arise. The said position of law has been duly considered by Trial Court while rejecting application.

5. Hence, this Court finds no perversity in the order impugned. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

bsj