



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5485 OF 2025

Ramesh Jugraj Jain
(Deceased through LRs)
VERSUS

....Petitioner

Motichand Hukumchand Bundelkhandi
& others

.....Respondents

Mr. N. V. Dhake, Advocate for the Petitioner.
Mr. M. G. Patil, Advocate for Respondent No. 1.

CORAM : R. M. JOSHI, J.
DATE : 19th AUGUST, 2025.

PER COURT :

1. Learned counsel for both sides are heard at length.
2. This Petition takes exception to the order passed below Exhibit 35 in Regular Civil Appeal no. 141/1991 whereby the Application made by Petitioner for exhibiting Adoption Deed came to be rejected.
3. Learned counsel for Petitioner submits that though such Application was moved before the Appellate Court, it was absolutely necessary for the Appellate Court to decide said issue at the time of final decision of the Appeal. It is his contention that irrespective of

the fact that whether any document is exhibited or not, if it is proved by leading evidence, the same can be read in evidence. It is his submission that the findings recorded by the Appellate Court in this order about the Adoption Deed cannot be read in evidence is not sustainable. It is his submission that by setting aside the order impugned, the said issue be kept open for decision at the time of final hearing.

4. Learned counsel for Respondent No. 1 supports the impugned order.

5. There is substance in the contention of learned counsel for Petitioner when he states that irrespective of formal exhibition of the document the same can be read in evidence if proved in accordance with law. In any case, it was necessary for the Appellate Court to decide the said issue while considering the entire evidence on record. It is open for the Appellate Court to re-appreciate the evidence and record altogether independent findings of fact. Thus, this cannot be done in piecemeal.

6. As a result of above discussion, the impugned order cannot sustain and hence set aside. The issue as to whether the Adoption Deed can be read in evidence be decided by the Appellate Court at the time of decision of the Appeal. Petition stands disposed of in above terms.

(R. M. JOSHI)
Judge

dyb