



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 WRIT PETITION NO. 8093 OF 2025

Kondabai Venkat Kambalwad

VERSUS

Bharatbai Murlidhar Pitale And Others

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Advocate for Petitioner : Mr. N.D. Kendre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 10, 2025

FINAL ORDER :-

1. The petitioner/original plaintiff in RCS No.280 of 2019 impugns the order dated 23.1.2025 passed by the learned Civil Judge J.D. Nilanga below Exhibit 79.

2. Mr. Kendre, learned advocate appearing for petitioner submits that petitioner has filed an application for permission to adduce secondary evidence in respect of sale-deed 16.3.2007 since original sale-deed is in possession of defendant no.7 Shivaji Pitale. Although notice for production is served upon him, he failed to produce the same. Therefore, plaintiff seeks permission to lead secondary evidence on the basis of certified copy of the document. Mr. Kendre submits that learned Civil Judge J.D. Nilanga erroneously rejected plaintiff's prayer.

3. Perusal of the impugned order shows that petitioner had issued a notice for production of the document to defendant no.7 Shivaji Pitale. It is a matter of record that defendant no.7 Shivaji has sold the land to one Mehmood Usmansab Attar i.e. defendant no.8. Admittedly, plaintiff has not issued notice for production of sale-deed to Mehmood, who must be in possession of original document.

4. In that view of the matter, no fault can be found in the order of the trial court thereby refusing to entertain prayer seeking permission to lead secondary evidence as regards to sale-deed dated 16.3.2007.

5. In result, there is no substance in the writ petition. Writ Petition stands **rejected** with liberty in favour of petitioner to take appropriate steps for issuance of notice to respondent no.8 for production of document and, in case of failure of respondent no.8 to produce the document, take further steps for leading secondary evidence.

(S. G. CHAPALGAONKAR, J.)

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