

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9409 OF 2025

Harishchandra Bhagwan Chadre

VERSUS

Subhash Bhimrao Bansode And Another

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Advocate for the Petitioner : Mr. Deshpande Gaurav L.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : AUGUST 07, 2025

PER COURT :-

1. Heard Mr. Gaurav Deshpande, learned advocate appearing for petitioner.

2. The petitioner seeks to challenge order dated 18.11.2024 passed by learned Civil Judge Junior Division, AUSA below Exhibit-74 in Regular Civil Suit No.501 of 2014 by which the respondent/plaintiff is permitted to re-examine himself on the point of agreement dated 30.06.2008 and receipts generated in pursuance of said agreement.

3. Mr. Gaurav Deshpande, learned advocate appearing for petitioner submits that plaintiff had recorded his evidence. He was thoroughly cross-examined and during cross-examination, he has denied existence of alleged stamp and also shown ignorance about date and number of stamp. Similarly, the alleged agreement is unregistered and unstamped and therefore, such a document cannot be exhibited. He would therefore submit that the Trial Court ought

not to have permitted re-examination of plaintiff over document dated 30.06.2008. Mr. Deshpande would further submit that the impugned order is passed without hearing the petitioner as such, there is violation of principle of natural justice.

4. Having considered submissions advanced, it can be observed that respondent/plaintiff had recorded his evidence and during cross-examination gave some admissions. However, it was his case that respondent/plaintiff and defendant no.1 has executed document dated 30.06.2008 on stamp paper of Rs.100 in relation to land Survey No.361/K. Apart from aforesaid agreement to sale, the receipt was also executed. The scribe of such document was one Baburao Gundaji Shinde and document is signed by both parties to the agreement.

5. After examination of respondent/plaintiff, he filed application at Exhibit-74 stating that witnesses on aforesaid agreement and its scribe Mr. Baburao Shinde is reported to be dead. Therefore, for purpose of exhibiting aforesaid documents, he needs to re-enter into witness box. The learned Trial Court after taking into account the fact that witnesses on aforesaid document are not available or reported to be dead, granted permission to plaintiff to re-enter in witness box and lead further evidence. Such an exercise appears to be in tune with Rule 17 of Order 18 of Civil Procedure Code.

6. So far as objection that plaintiff is already examined and he gave vital admissions in cross-examination and objection that document being unstamped cannot be exhibited, all such contentions are available to be raised at appropriate stage of trial. However, impugned order permitting plaintiff to re-enter in witness box cannot be faulted.

7. In that view of matter, there is no merit in writ petition. Writ Petition stands rejected.

(S.G. CHAPALGAONKAR, J.)