



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO. 688 OF 2020

BHAGWAN SHANKARRAO BHALKE
VERSUS
SHIVRAJ SHANKARRAO BHALKE AND ANOTHER

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Mr. S. S. Chillarge h/f. Mr. S. V. Chandole, Advocate for the Petitioner.
Mr. Amit Tandulkar h/f. Mr. Gajanan G. Kadam, Advocate for
Respondent Nos.1-A to 1-D.

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CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 26th JUNE, 2025

PC.:-

1. Advocate S. S. Chillarge holding for Advocate S. V. Chandole appears for the Petitioner and Advocate Amit Tandulkar holding for Mr. Gajanan Kadam appears for the Respondent Nos.1-A to 1-D.
2. This petition takes exception to the order dated 10th October 2019 passed by the Court of Joint Civil Judge, Junior Division, Taluka Mukhed, District Nanded on an application (Exhibit-48) under order XIII Rule 1 of the Code of Civil Procedure, 1908 (CPC) for production of documents of the consent deed.
3. Assailing the impugned order, Advocate for the Petitioner vehemently submits that Trial Court has allowed the application filed by the Plaintiff for production of the documents of consent deed by ignoring the earlier order dated 19th September 2019, by which the

same application under Order XIII Rule 1 of the CPC filed by the Petitioner was rejected. He vehemently submits that since the order dated 19th September 2019 passed below Exhibit-47 was not at all challenged by the Plaintiff, the Trial Court committed illegality in entertaining another application for the same relief.

4. Advocate Amit Tandulkar appearing for Respondent Nos.1-A to 1-D strongly opposes the petition. He submits that although order dated 19th September 2019 was passed, however, in view of the subsequent developments the original document of the consent deed was traced out. The actual reason of tracing out the document was mentioned in the second application and the Trial Court has rightly considered the same. He submits that since the earlier application was not decided on merits and the second application was decided on merits, the impugned order is justified.

5. It has to be noted that the Plaintiff has filed first application under Order XIII Rule 1 of C.P.C. at Exhibit-47 in the civil suit for seeking permission to file the document 'consent deed'. Undisputedly, this application was decided after considering the say of the parties and their submissions, as can be seen from the order dated 19th September 2019. After this application was rejected, the Plaintiff has not challenged this order and instead filed another application seeking the same relief.

6. In view of this crucial aspect, I am of the considered view that once the application under a specific provision was rejected, the Trial Court committed illegality in entertaining another application claiming same relief, under the same provision, by the same party. As such on this count, the impugned order is unsustainable and it is liable to be quashed and set aside.

7. Writ petition is allowed. Impugned order dated 10th October 2019 passed by the Court of Joint Civil Judge, Junior Division, Mudkhed on application at Exhibit-48 in Regular Civil Suit No.165 of 2014 is quashed and set aside.

8. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)