



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.2282 of 2025

Rishu Kishor Vaidya

vs.

Arun Dashrat Nimje and others

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.W. Sambre, Advocate for the Petitioner.
Mrs. Mrunal Naik, A.G.P. for Respondent No.5.

CORAM : ANIL L. PANSARE, J.

DATE : 25th APRIL, 2025.

Challenge is to the order dated 12/03/2025 passed by the Assistant Charity Commissioner, Chandrapur rejecting the application [Exh.103] filed by the petitioner-original reporting trustee before the Assistant Charity Commissioner. By the said application, the petitioner requested the Assistant Charity Commissioner to mark the documents exhibit, that were filed along with the rejoinder filed by the petitioner. The said documents were submitted on 21/11/2012. The Assistant Charity Commissioner rejected the application on the ground that the documents were filed along with list of documents. However, the list of documents so filed, does not bear the signature of the reporting trustee or his Counsel. Another reason that has been assigned is that, the documents under question were the photocopies.

02. The petitioner relied upon couple of judgments of this Court to contend that there is no necessity to file application to lead secondary evidence, nor any permission of the Court required to lead evidence of such kind.

03. The principles of law on this point are well settled. Indeed, there is no necessity to file application to lead secondary evidence.

However, it is equally well settled that the person like the petitioner will have to make out a case for leading secondary evidence. Accordingly, the Counsel was called upon to show from evidence that the reporting trustee or the witness has made out a case for leading secondary evidence either in his evidence or otherwise and further in/through evidence, the witness has proved the contents of documents in question. Learned Counsel could not. If that be so, the documents sought to be executed cannot be said to have been proved.

04. Thus, the petitioner intends to get the documents exhibited on the basis of same having been filed on record along with the rejoinder. To my mind, on this point, the law does not support the contention of the petitioner that filing documents will make it necessary to the authority below or Court to mark them exhibit.

05. As such, merely because the documents are marked exhibit would not mean that the contents thereof are proved. However, in the present case, the insistence by the petitioner to mark documents exhibit at the stage when the proceedings are fixed for final argument, is not sustainable in absence of evidence on proof of contents of documents. I do not, therefore, find any reason to interfere with the impugned order. There is no substance in the petition. The petition is dismissed with no order as to costs.

(Anil L. Pansare, J.)

**sandesh*