

ORDER BELOW EXH. 46 IN Spl.C.S NO.15/2019

[CNR No:-MHAU050013342019]

Defendant No. 2 has filed present application under Order 11 Rule 16 of C.P.C for production of document.

2] It is submitted by the defendant No. 2 that, plaintiff has mentioned about will deed dated 20/06/1997 in his plaint as well as application for temporary injunction (Exh. 5). However, plaintiff has not filed said document in the matter. As said document is necessary to see whether defendant No. 1 Chandramohansingh had right to execute sale deed on the basis of alleged will deed. Hence, prayed to allow the application and direct plaintiff to file the will deed dated 20/06/1997.

3] The plaintiff has given his say and raised objection stating that, alleged will deed was executed by Pratapsingh in favour of defendant No.1 Chandramohansingh. Therefore, said document must be possessed by defendant No. 1. As plaintiff is not concerned with said document he does not possess it and defendant No. 2 cannot demand it from plaintiff. Hence, prayed to reject the application.

4] Perused the application and say. Heard both sides. It appears that as per plaint alleged will deed was executed in favour of defendant No.1 by his father Pratapsingh. Therefore, said document can be possessed by him only. Plaintiff has mentioned about said document in his plaint as well as (Exh. 5) temporary injunction

application, however, he cannot possess it. As per general rule the person who is executor or in whose favour the document is executed can only possess the document. As plaintiff is neither executor nor possessor of the document he cannot be directed to produce the same. Therefore, the provisions under Order 11 Rule 16 cannot be invoked against plaintiff. As such the application is not maintainable, I pass following order:-

ORDER

The application is hereby rejected.

Date:- 16-03-2021.

(Smt. P. T. Shejwal-Kale)
Jt. Civil Judge Senior Division
Vaijapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	:	G.D.Ghule.
Court	:	Smt. P. T. Shejwal-Kale, Jt. C.J.S.D., Vaijapur.
Date of Order	:	16.03.2021
Order signed by the P.O.	:	16.03.2021
Order uploaded on	:	16.03.2021