

Regular Civil Suit No. 147/2010

Kusum Jaikar Vs. MCA & Otrs.
(Order Below Exh.-93)
(Passed on 17th October 2015)

Present application is filed by plaintiff for granting permission to lead the secondary evidence in respect of documents mentioned in Exh.-71, as well as, filed below list Exh.-04 at serial nos. 02, 03, 05 and 06.

02. Plaintiff contended that vide Exh.-71 he has filed application for calling certain record from concern office, as well as, in respect of calling document at serial nos. 02, 03, 05 and 06 below list Exh.-04. Documents sought to be produced are in the custody of concern department. Plaintiff took efforts for securing production of said documents but same was not produced by the concerned authorities. Documents at Sr.No. 02, 03, 05 and 06 below list Exh.-04 are necessary for proper adjudication of the dispute in between the parties. The original are not in possession of the plaintiff. Therefore, present application is filed.

03. Defendant corporation filed say and objected the application contending that documents like P.R.Card, Court orders and Government orders

can be obtained from the concern department and can be filed on record.

There is no necessity to lead secondary evidence on production of certified copies. P.R.Card of the suit property is bogus and having imaginary numbers.

04. On perusal of document below list Exh.-04 it shows that documents at Sr.Nos. 02 and 03 are the copies of consent-deed 13.01.1986 and 25.10.1985 respectively while document at Sr.Nos. 05 and 06 are the copies of probate certificate dated 08.03.2007 and copies of P.R.Card of CTS No. 15849/A-195/1 with the toch map. All these documents are xerox copies. In that circumstances, the permission itself cannot be allowed as the document i.e consent-deeds seems to be registered document and plaintiff can filed its certified copy, as well as, certified copy of probate certificate and P.R.Card.

05. On perusal of application Exh.-71, it shows that plaintiff have filed application for issuance of summons to the witnesses for production of following documents :-

a) Registration certificate dated 29.04.2003 bearing registration no. 354/2003 from the office of Public Trust, Aurangabad

b) Sale-deed bearing day-book nos. 382/1991 and 6226/58 dated 10.04.1991 and 19.08.1958 respectively from Sub-Registrar, Zone

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No.2, Collector Office, Aurangabad

c) Order no.3364/1985 dated 21.10.1985 from Municipal Corporation Aurangabad and document bearing outward no. 224/2009 and 15/2009 dated 15.06.2009 and 30.08.2009 respectively from Ward Officer, Ward-F, Jawaharnagar, Aurangabad.

06. On perusal of record it shows that in due course summons were issued to the witness and the certified copy from Public Trust Registration Office is filed. Witness of Sub-Registrar Office by letter dated 19.05.2014 have informed that copies of day-book nos. 382/1991 and 6226/1958 are with the office of Sub-Registrar, Class-II, Aurangabad No.01. Further Ward Officer of defendant corporation has filed application and letter stating that letter bearing outward nos. 224/2009 and 155/2009 are not issued from their office and the said letters are issued from the department of encroachment and unauthorized construction of Municipal Corporation Aurangabad under head of Administrative Officer. Therefore, summons be issued to them.

07. After perusing report, it shows that the application of plaintiff is to be allowed partly to the extent of granting permission for leading secondary evidence on the registration certificate of Public Trust Registration Office

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dated 29.04.2003. Except this the document of which plaintiff sought permission for lead secondary evidence are itself filed on record and the documents below Exh.-71 can be collected from the concerned authorities as replied by the concern witness by their letter. Hence I hold that application is to be partly allowed and passed the following order.

ORDER

01. Application is partly allowed.

02. Plaintiff is permitted to lead secondary evidence in respect of registration certificate dated 29.04.2003 bearing registration no. 354/2003 issued by Public Trust Registration Office, Jalna Road, Aurangabad.

03. Costs in cause.

Sd/-

(S.J.Biyani)

Civil Judge Senior Division

Corporation Court, Aurangabad

Date :- 17.10.2015

CERTIFICATE

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

Name of the Stenographer : Manoj S. Nangre
Court : Civil Judge S.D.(Corporation), A.bad
Date : 17.10.2015
Order signed by the presiding officer on: 17.10.2015
Order uploaded on : 20.10.2015