

ORDER BELOW EXH. 142.

(Date : 06/02/2020)

This is application to exhibit copy of agreement of sale, sale-deed and form no. 8 i.e. copy of tax assessment.

2. The defendant no. 2 contended that, the plaintiff has pleaded and collected evidence in respect of sale-deed and agreement of sale. They exhibited by article A and B. But, there is necessity to exhibit the same. The copy of form no. 8 is public document. It may be read in evidence. He prayed to exhibit the same.

3. Learned counsel Shri. N. B. Sangle for the plaintiff objected this application and given say, as the defendant no. 2 executing alleged sale-deed on 03/10/2002 by deceiving Gangubai. It is illegal. Defendant no. 2 had not examined, scribe, executors, executees and witnesses of agreement of sale and sale-deed. Therefore, they are not admissible in evidence and shall not be exhibited. The agreement of sale is not registered. This application is not legal. It may reject with cost.

4. Heard learned counsel Shri. H. C. Mitkari for defendant no. 1 and Shri. N. B. Sangle for the plaintiff. They argued as per contentions of submissions of their parties. None for others appeared.

5. Perused record. The plaintiff pleaded about false,

nominal and fabricated deeds and thereby attempt of dispossession from the suit land. The defendant pleaded about agreement of sale dated : 24/06/2002 and it's sale-deed dated : 31/12/2002. Learned counsel for defendant cross-examined plaintiff on the fact of execution of agreement of sale and sale-deed and it's purpose. But, there is no sufficient evidence. My learned predecessor exhibited sale-deed and agreement of sale as Article A and B respectively, while recording the evidence of Samadhan Vitthal Lokhande (DW-1). Learned counsel for plaintiff has cross-examined defendant and his witness on that document.

6. However, both parties have contended contrary nature and purpose of agreement of sale and sale-deed. The defendants have not examined witnesses, scribe and executor and executees of both documents. The evidence collected by both parties in respect of that document are subject of appreciation of evidence and thereby determine admissibility of documents. However, this is pre-matured stage. Under such circumstances, admissibility of document can be determined at the time of final argument or the judgment. My learned predecessor already given identification mark to the documents the sale-deed and agreement of sale as referred in evidence. That is sufficient to refer the document or identify the same. Under such circumstances, there is no need to exhibit the same freshly. Mere, collecting circumstances of document in evidence are not sufficient to determine admissibility of document at this stage. The nature of document is material.

Both parties have contrary deposed purpose of executing documents. In the result, I do not find substance the submission of learned counsel Shri. H. C. Mitkari and this application.

7. The plaintiff has not objected exhibition of form no. 8 i.e. copy of tax assessment filed below list (Exh. 123). The record of tax assessment with village panchayat office is a public record, vide Section 74 of the Indian Evidence Act. It's copy shall be treated as copy of public record, vide Section 76 Indian Evidence Act. There is provided certain presumption in respect of truthfulness and correctness record, vide Section 79 of Indian Evidence Act. The copy filed below list (Exh. 123) is certified. It is admissible in evidence. There is no requirements of oral evidence in that respect. Hence, the said copy can be exhibited in eye of law. In the result, I found part substance in this application. In the result, I pass following order.

ORDER

- 1) The application is partly allowed and thereby copy of tax assessment, form no. 8, filed below list (Exh. 123) shall be exhibited at Exh. 147 in the interest of justice.
- 2) The prayer for exhibiting sale-deed and agreement of sale is rejected in the interest of justice.
- 3) Order dictated on computer and pronounced in open court.

Date : 06/02/2020.

(S. A. Surjuse
Judicial Magistrate First Class
MEHKAR

C E R T I F I C A T E

I affirm that, the contents of this PDF file Judgment / order are same word for word, as per original order.

Name of the Stenographer	:	R.D.Bodhekar
Name of the Court	:	Jt.C.J.J.D. & J.M.F.C. Court, Mehkar
Dated	:	06/02/2020
Order uploaded on	:	07/02/2020