

MHKO070013922016



ORDER BELOW EXH. 26 IN RCS No. 250 / 2016
Ramesh Kambale & oth. Vs. Amol Kambale & oth.

This is an application by plaintiffs under Order XI Rule 14 of Code of Civil Procedure, for directing defendant No. 1 for production of original documents. Say of defendant is at Exh. 29.

02. Heard learned Advocates for both the sides. Perused application and say. Also gone through record and proceeding.

03. The suit is for declaration that alleged agreement dated 06.02.1984 as well as registered Adoption Deed dated 19.02.1997 are null and void. Photostat copies of both those documents are filed on record at Exh. 3/1 and 3/2. Now issues are framed and the suit is posted for evidence. However, till date, defendant No. 1, who is alleged to be in possession of both the original documents, has not produced it in the court. Defendant No. 1 has challenged this document on the ground that plaintiffs are not having any right to claim such declaration. However, he has conveniently kept silence as to whether he possess said original documents or not. It is also further seen that while appearing in the suit and preferring written statement, defendant No. 1 has specifically made averments about both these documents, however therein also he has conveniently kept silence as to whether he is in possession of those documents or not.

04. Therefore, I have gone through recitals of documents at Exh. 3/1 and 3/2, and *prima facie* it is seen that defendant No. 1 is the person in whose favour both those documents were executed and therefore naturally he is the person in whose possession those documents ought to be. As per provisions of Order VIII Rule 1-A as well as Order XIII Rule 1 of Code of Civil Procedure, defendant No. 1 ought to have filed on record all the original documents before framing issues. However, for the reasons discussed above, it transpire that although defendant No. 1 ought to be in possession of those documents, have not filed the same till date. Since the suit is based on those documents, original documents are necessary to be on record.

05. In the light of all the abovesaid, I am of the view that as per provisions of Order XI Rule 14 of Code of Civil Procedure, directions can be given to defendant No. 1, for production of both these original documents. Accordingly, following order.

ORDER

- 1- Application is allowed.
- 2- Defendant No. 1 is directed to produce agreement dated 06.02.1984 as well as registered Adoption Deed dated 19.02.1997, on record.

Dt. 03.10.2022
Jaysingpur

(**Anand D. Karbhajan**)
Jt. Civil Judge (Junior Division),
Jaysingpur, Tq. Shirol, Dist. Kolhapur