



ORDER PASSED BELOW EXHIBIT 53
IN R.C.S. NO.59/2018
(CNR No.MHKO110004842018)

01. This is an application filed by plaintiff under order XII Rule 8 of Code of Civil Procedure,1908.
02. Heard learned advocate for plaintiff Shri. P. M. Jadhav and learned advocate for defendant No.2 and 3 Shri. V.B.Patil.
03. It is contention of plaintiff that this is representative suit. The right of so many people is involve in this suit. Balaso Chougale execute gift deed on dated 07.01.1956 in favour of defendant No.2. Further he contended that after publication of notice in paper, defendant No. 3 appeared before court. After demise of Balaso Nimbalkar all responsibility is handed over to Shri. Desai. Due to political pressure not a single document is available to other people. Further it is contention of plaintiff that he demanded document which is mentioned in the application dated 14.05.2018. Copy of that application produced at Exh.40, but he not given. Therefore, he send notice to defendant No. 2 dated 02.01.2019 as per the order XII Rule 1 of Code of Civil Procedure,1908. Acknowledgment receipt and postal receipt of said notice is produced which is at Exh. 49/1 to 3. This notice also sent as per the section 66 of the Indian Evidence Act 1872. Further it is submitted

that to decide the matter on merit this document need be to bring on record. Evidential value of these document will be decided at the time of final hearing. According to plaintiff in the year of 1943 Balaso Nimbalkar handed over his education societies to Shri. Desai. Therefore, According to other documents, document mentioned in the application is in custody of defendant No.2. Further it is submission of plaintiff that so many people rights involved in this suit. Hence the application.

04. In spite of sufficient opportunity given to the defendant No. 1, 4 to 7. They failed to file their say. Hence 'No Say" order passed against them dated 09.06.2019. Defendant No.2 adopted say filed by defendant No.3 which is at Exh. 56 by filing pursis at Exh.66.

05. Heard learned advocate Shri.V.B.Patil for defendant No. 2 and 3 . He strongly resisted the application by filing say at Exh. 56. As per his contention there is no connection of document which is demanded by the plaintiff by way of this application. Document mentioned in the application is easily available through appropriate authority. Only to harass defendant Plaintiff filed this application. Therefore, prayed for rejection of the application.

06. Before touching to the relief claimed by plaintiff in this application it is proper to discuss what is representative suit. The object underlying this provision is really to facilitate the decision of questions in which a large

number of person are interested without recourse to the ordinary procedure. Order 1 rule 8 of the code has been framed in order to save time and expense, to ensure a single comprehensive trial of questions in which numerous persons are interested and avoid harassment to parties by the multiplicity of suits. In cases where the common right or interest of a community or members of an association for large sections is involved, there will be insuperable practical difficulties in the institution of suits under the ordinary procedure, where each individual has to maintain an action by separate suit. To avoid numerous suits being filed or for decision of a common question, Order 1 rule 8 has come to be enacted. The provision therefore, should receive liberal interpretation, which will sub-serve the object of its enactment.

07. Heard both side at length. Considering document mentioned in the notice dated 02.01.2019 which is sent by plaintiff No. 3 in notice, particularly document mention in serial No.2. Considering nature of document i.e. certified copies of proceeding carried out before charity commissioner i.e. Public document. They are easily available to any person when made an application to appropriate authority. Learned advocate for plaintiff submitted that due to political pressure by all the defendant document has not made available to the plaintiff or any other third person but while considering record of proceeding plaintiff has not produced single document on record to show that he has applied for certified copies of

those document. Therefore, submission made by the learned advocate by the plaintiff is not acceptable at all. Further other document mentioned in notice i.e. constitution is relating to education institution i.e. Book of constitution acting member of education institution, information relating to immovable property Ghokhale College, Kolhapur, Barister Balasaheb khardekar college, Vengurla, Dist. Sindhudurg. Other institute which is established in the Belgaon, Karnanata, Raibag, Kagal, etc. Considering the above document and property mentioned in the plaint para No. 1 are totally different.

08. They are not a suit property and not in question before the court. Moreover in plaint not a single word uttered by plaintiff relating to above mentioned societies. It is submission made by learned advocate for plaintiff that in the year 1945 Balaso Khardekar-Nimbalkar handed over his educational societies to Shri. Desai to look after their affairs. It is pertaining to note here that at the time of handing over all the document were also given to them. Plaintiffs need to produce any cogent/documentary evidence to consider this submission. Therefore, where there is no pleading subject matter than how plaintiff can claim relief against that. Though this suit is representative suit and interest of public at large involved in this suit, unless and until that property is not subject matter of suit relief can not be granted and not take in to consideration while decide the matter on merit. Moreover as mentioned above plaintiff has not produced single document to believe his pleading or

submission. As per law only pleading is not sufficient, need to be supported of documentary or any other cogent evidence. Thus considering the above reason I proceed to pass following order.

-: ORDER :-

1. Application at Exh. 53 is hereby rejected.

Date 27.11.2019.

(Smt.Pankaj B.Rajput),
I/C. Jt. Civil Judge,Jr.Dn.,
Peth-Vadgaon.

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	Mrs. Rajashri Rajendra Sawant (L.G.)
Name of Court	Smt.Pankaj B.Rajput Jt. C. J. J. D. and J.M.F.C., Peth Vadgaon.
Date of Dictation	27.11.2019.
Order signed by the P.O. on	27.11.2019.
Order uploaded on	28.11.2019.