

Order below Exh. 16 in Regular Civil Sunit No. 21/2020.

- 1) The application has been filed by the plaintiffs for return of the documents filed below Exh.No.14/1. The said civil suit has been insituted claiming the relief of declaration, mandatory injunction and perpetual injunction. The matter has been scheduled for the hearing on interim application below Exh. No.5.
- 2) Perused the record of the case. The document below Exh.No.14/1 is the partition-deed/family arrangement or agreement of the year 1934.
- 3) Perused the provisions of O. XIII, r.09 of the Code of Civil Procedure, 1908. The same is reproduced here for the purpose of discussion.

Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same,-

- (a) *Where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and*
- (b) *Where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of:*

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor-

- (a) *delivers to the proper officer for being substituted for the original,-*

- (i) *in the case of a party to the suit, a certified copy, and*
 - (ii) *in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and*
- (b) *undertakes to produce the original, if required to do so:]*

Provided also, that no document shall be returned which, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.

Thus, as seen above, as per the proviso, the documents can be returned if the conditions mentioned therein are fulfilled.

- 4) As the present matter is scheduled for hearing on interim application, the subject matter of the suit revolves around the partition-deed/family arrangement or agreement of the year 1934, hence it is an important document for the purpose of determination of controversy between the parties. But the learned advocate for plaintiffs have expressed apprehension that partition-deed/family arrangement or agreement of the year 1934 being a crucial document, any marks by pencil or pen inadvertently or reasonable wear and tear of the document being old and already worn-off to some extent, but legible to be read and understood would cause problem for both the parties. The apprehension of plaintiffs cannot be said to be unreasonable as partition-deed/family arrangement or agreement of the year 1934 needs to be kept safe, intact and

without any obliteration. Moreover, plaintiffs undertake to make the original partition-deed/family arrangement or agreement of the year 1934 available whenever it required by Court during hearing. Thus document below Exh.No.14/1 can be returned to the plaintiffs as per proviso to O. XIII, r. 9(b) of Code of Civil Procedure, 1908. Proper receipt of the documents by the plaintiffs be kept on record. Accordingly, the application is disposed of.

Date :08/03/2021

Place : Kagal

(Katkar Vijaya N.S.)

**Jt. Civil Judge, Junior Division,
Kagal.**