

MHKO170000482008



**Order below Exh.71**

- 1) Perused the application of defendants and say of plaintiff vide Exh.72. Heard the both sides and perused record.
- 2) By this application, defendants have prayed for discarding the evidence on the affidavit of power of attorney for plaintiffs namely Babaso Bhimrao Ghatage stating that the said power of attorney holder is not having knowledge regarding the facts and circumstances and incidents in respect of the suit property and there are three plaintiffs in this suit and they are not coming before the court to depose the truth. Power of attorney holder is not witness in respect of the transactions and incidents about suit property and so he is not having right to depose on behalf of plaintiffs. So defendants have prayed for discarding affidavit of evidence of P.W.1 power of attorney holder of plaintiffs namely Babaso Bhimrao Ghatage.
- 3) Plaintiffs have filed say to this application vide Exh.72 and deposed on oath all the contents in the application. As per the say of the plaintiffs, application is false and not tenable. This suit has been filed in the year 2008 and power of attorney holder Babaso was also power of attorney holder for plaintiffs in all previous revenue proceedings in between plaintiffs and defendants and plaintiffs have given him power of attorney since 2006 and so this application is not tenable. Contents in the application are false and power of attorney holder Babaso is son of plaintiff no.2 in this suit and plaintiff no. 1

and 2 are old age persons and plaintiff no.3 is purchaser and so power of attorney holder Babaso is having knowledge regarding the facts and circumstances of suit property and so he is having right to depose on behalf of plaintiffs. So plaintiffs have prayed for rejection of the application.

4) Heard both the sides and perused the record. Perusal the record it shows that plaintiffs have filed this suit for perpetual injunction and recovery of possession against defendants. Defendants have filed their written statement vide Exh.18 and denied the claim of plaintiffs. Record shows that, in the plaint itself, the power of attorney holder Babaso Bhimrao Ghatage, is shown as power of attorney holder on behalf of plaintiff no.1 to 3 and he has filed this suit on behalf of plaintiffs. Further, in their written statement, defendants have not raised their grievance against the said power of attorney holder as mentioned in this application. Record shows that thereafter since filing of this suit, power of attorney holder Babaso is conducting the matter on behalf of the plaintiffs. The original deed of power of attorney has been filed on record by plaintiffs vide list below Exh.70. The said power of attorney is executed by plaintiff no. 1 to 3 in favour of Babaso Bhimrao Ghatage in respect of land gat no.1633 A and 1633 B and it is dated 22.09.2006. So the said power of attorney has been executed prior to filing of this suit. Further, plaintiffs have filed on record certified copy of RTS/second appeal no.206/2006 and in the said appeal also, PW.1 Babaso was power of attorney holder for plaintiffs no.1 to 3, who were appellants no.1 to 3 in that proceeding.

5) So in such circumstances, at this stage I do not find any substance in the submissions made on behalf of defendants that the

said power of attorney holder Babaso is not having knowledge regarding facts and circumstances of this suit and incidents relating to the suit property. Record shows that power of attorney holder Babaso is conducting the proceeding regarding the suit property on behalf of plaintiffs no. 1 to 3 since 2006 by the authority of power of attorney. Further this suit is of the year 2008 and it has been instituted by power of attorney Babaso on behalf of plaintiffs and till filing of this application, defendants have not taken any objections to his power of attorney but when PW.1 Babaso filed his affidavit of examination-in-chief on behalf of plaintiffs, vide Exh.68 and matter was posted for his cross examination, defendants have filed this application. So, from the above facts and circumstances of this suit, it appears that defendants have filed this application with an intention to prolong the matter. Hence, in the light of above entire discussion, I do not find any substance in this application hence, I proceed to pass the following order.

**ORDER**

1. Application stands rejected.
2. As the matter is too old and necessary to decide as early as possible, so, the both the parties are requested to co-operative for expedites disposal the matter.

Sd/-

Place : Panhala

Date : 02/02/2019.

(V.A.Awaghade)  
Jt. Civil Judge Junior Division,  
Panhala.

**-: CERTIFICATE :-**

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

Name of the Stenographer	Shri. A.S.Patil
Name of Court	Shri. V.A.Awaghade
Date of Dictation	02/02/2019
Order signed by the P.O. on	02/02/2019
Order uploaded on	04/02/2019