

MHLA050002302021



**Order below Exh.43 in R.C.S.No.11/2021**

**Bhagirathabai**

**Vs.**

**Sub-Divisional Officer & Ors.**

The application is submitted as per Order-XI Rule-12 of C.P.C. by the plaintiff. It is her contention that, the suit is filed for perpetual injunction to restrain the defendants from disbursing and withdrawing the amount of compensation awarded for the acquisition of the ancestral property of the plaintiff. She has ½ share in the compensation. Defendant No.1 denied her claim. Defendant No.1 did not remain present in the Court after service of summons. Defendant No.1 disbursed the amount on account of defendant No.2. So it is prayed that, defendant No.2 may be directed to produce the account details of his account from the State Bank of India, Branch - Shirur-Anantpal from the year 2018 till today.

2. Say is filed by the defendant No.2. According to him, the plaintiff has filed R.C.S.No.56/2022 in the same Court. Present suit is for leading evidence. The plaintiff can call the bank officer with the statements of account. Therefore, the application may be rejected.

3. Heard Advocate for the respective parties.

4. As per Order-XI Rule-12 - any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents

which are or have been in his possession or power, relating to any matter in question therein.

5. The discretion is left with the Court whether to allow the application or reject or to allow in the part or in full.

6. The relationship between the bank and the customer is based upon confidentiality and that should not be disturbed. The case of the plaintiff is that, she is entitled for  $\frac{1}{2}$  share of the compensation amount. If the plaintiff shows her entitlement to the amount, definitely she has to rely upon the document of compensation. The fact is immaterial whether the amount is disbursed by the party and accepted by the defendant. The witnesses of the plaintiff might be competent enough to state the facts with the help of documents to show her entitlement to the compensation amount.

7. The plaintiff is at liberty to issue summonses to the bank witnesses by calling documents. The witness may tell in Court on oath whether any amount was credited to the account of defendant No.2. The word discovery used in Rule-12 of Order-XI is vital. It means the document within the knowledge of parties which is deliberately suppressed by one of the parties. The statement of the account of defendant No.2 is available with the bankers which can be produced on record by him if he is called as a witness. So there is no necessity to allow application. Hence, it is rejected.

Sd/-

( S.N.Sarde )

Civil Judge Sr. Div., Ahmedpur.

Date:19/07/2024.