

R.C.S. No. 180/2013
Vithal & ors. Vs... Narayan
& ors.
Exh.98

ORDER Below Exh.64.

MHLA15000568-2013

The present suit is filed for Declaration and perpetual injunction. The defendant no.1 has moved the present application and prayed to grant permission to lead secondary evidence of sale-deed no.678/1966.

2. It is contended in application that, plaintiff has filed suit alleging that Tukaram Mandurke had no relation with family of plaintiff, but the said Tukaram in collusion with revenue authority got recorded his name over the revenue record of suit property. In reply to the above allegation defendants submitted that survey no. 27 adm. 13 Acre 26 Gunthe was belonging to Tukaram Mandurke had transferred the said land to father of defendant through sale deed no. 678/1966 on 28.02.1966 for consideration of Rs. 7,000/-. In support of case defendants have filed certified copy of sale deed no. 678/1966 of dated 28.02.1966. Original copy of sale deed no. 678/1966 had been lost as it was old one. RCS No. 155/1980 had been filed by the father of defendant no.1 against the father of present plaintiff before C.J.J.D. at Ahmedpur in respect of suit property. The said suit is disposed of. Father of defendant had filed said sale deed no. 678/1966 in RCS No. 155/1980, but it has not been returned to the father of

defendant and it has been lost. So, it is impossible for the defendants to produce the original sale deed before this court. This sale deed is very important one. so it is just and proper to grant the permission to lead secondary evidence to prove the sale deed no. 678/1966.

3. Plaintiff has filed his say vide Exh.100 and contended that, the land Gat no. 27 adm. 13 are 26 R at village Takalgaon Tq. Chakur is owned and possessed by Vithoba Shambhu Dhangar. Tukaram Shamrao Mandurke never owned and possessed the land. Tukaram was residence of Balad Tq. Bhalki Dist. Bidar (Karnataka State) But he settled at village Rachannawadi Tq. Chakur Dist. Latur as there is his in laws house. The father of defendant Govindrao Sawat had taken false and wrong entry to the 7/12 extract of Survey No. 27 adm. 13 acre 26 Guntha in the name of Tukaram Mandurk. Defendant has falsely contended that the original sale deed no. 678/1966 submitted in the RCS No. 155/1980 and it is lost. Application filed defendant is false and bogus. Hence, he prayed to reject the application.

4. Perused the application and say thereon. Heard learned advocates for both sides. As per the contents in application the alleged sale-deed is lost and not traced out. As the sale deed was alleged to be executed in the year 1966. Hence possibility of being lost cannot be ruled out. So, as per Section 65 (a) if the original document is lost or destroyed then the secondary evidence of such document can be given. So, in view of the provision contained in Section 65(a) the present

application deserves to be allowed. Hence, I proceed to pass the following order.

ORDER

1. The application stands allowed.
2. The defendant no.1 is permitted to lead secondary evidence in respect of sale-deed bearing No. 678/1966 dated 28.02.1966.

Date :- 22/11/2024

(M.S. Luniya)
Jt. C.J.J.D., Chakur

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt. C.J.J.D., Chakur
Order Date	: 22/11/2024
Order signed by presiding officer on	: 22/11/2024
Order uploaded on	: 22/11/2024