

MHND240007922009



RCS No.52/2009
Anjanabai Vs. Gajanan

ORDER PASSED BELOW EXH. 237

(Dated 15.02.2024)

1. The Present application is filed by the learned advocate for the plaintiff to permit her to adduce oral evidence on the public documents which marked as Exh. No.214 to 236. The learned advocate for the defendant filed his say at Exh. No. 237A and taken objection.
2. In some and substance the plaintiff stated that the plaintiff has led her evidence and closed her evidence. Thereafter, some defendants have died and their Legal representatives have been taken on record. They have filed their written statement in which additional facts have come on record. Accordingly, the court has framed additional issues. The plaintiff had filed an application for additional evidence at Exh. 194 which was rejected by the court. She has filed copies of the revenue record of the suit property which are filed with the list of documents Exh. 208 dt. 14.12.2017. This Hon'ble Court passed the order on 07.02.2019 on the application below Exh 214 public document list with Exh. 208 be formally exhibited as Exh. 214 to 236 on record for identification of documents in the bulk of

the record. That the documents which are exhibited are public documents and in support of the said document oral evidence of the plaintiff is very necessary to be brought on record to adjudicate this matter finally on merit. Hence, in the interest of justice plaintiff may kindly be permitted to adduce her further oral evidence on the public documents Exh. 214 to 236 on record.

3. The plaintiff relied on an observation made by the Hon'ble Supreme Court and High Court in the cases of Bhima Kathari patil Vs. Rohidas Arjun madhav & others 2004 (2) MH. L. J. and Belarmina D'Sousa alisa Carmelina Belarmina D'Souza Vs. Villages Panchayat of Sodiem & ors. 2010 (6) Bom. C. R. 35 (Panji Bench).
4. The learned advocate for the defendant stated that the present application filed by the plaintiff is not tenable, devoid of merit and liable to be rejected. He stated that the plaintiff is not a competent person to examine herself by stepping into the shoes of the public officer. Those copies filed below Exh. 208 are public documents and they are exhibited by the court as Exh. No. 214 to 236. The plaintiff is not entitled to lead her oral evidence in support of the said documents as neither the plaintiff is a public officer nor she is public officer issuing those copies filed below Exh. 208. Secondly, the plaintiff never holds the position to have custody of those said filed documents being

a public office. Plaintiff has no locus stand to lead oral evidence in support of those documents filed below Exh 208.

5. That there is no provision under the Indian Evidence Act or the Civil Procedure Code to substantiate the contention of plaintiff to lead oral evidence in support of public documents when there is already completion of her evidence. Plaintiff intended maliciously to wrongly exercise the power of Hon'ble court u/section 151 of C.P.C.
6. That already the Hon'ble court has passed order below Exh. 194 and rejected her last application. However, the plaintiff filed the present application on the same ground to which the plaintiff is not entitled to do it. By filing this application plaintiff mainly intended to fill up the lacuna left away during the evidence of the plaintiff which is liable to be streak down or is entitled to be rejected.
7. On perusal of the record it shows that the plaintiff has led her evidence and by filing evidence close pursis she closed her evidence. The plaintiff sought prayer for permission to lead oral evidence on public documents, which are already exhibited at Exh. 2014 to 236 the plaintiff had filed the same kind of application which was rejected on 29.11.2018. Despite that, the plaintiff has filed the same application on the same grounds. The plaintiff wants to give oral evidence on public documents which are exhibited documents. the plaintiff is issuing

authority of said public documents. Therefore, her oral evidence is not useful on that point. However, as per the provision of the Indian Evidence Act, there is a presumptive value to public documents. Hence, there is no need for oral evidence of the plaintiff on that point. If the present application is allowed, it will take precious time of the court. Though the said public documents are exhibited formally it does not mean that they will be not used in final adjudication. It will be considered on the relevant point. Hence, at this stage, it will not be proper to permit to lead oral evidence on said point. So far as the additional facts are concerned. The plaintiff has not averred which additional facts have been given by the legal representative and what is an additional issue. The plaintiff has not contended whether any new issue was added after the amendment which cast the burden on her to prove. There is no such burden cast on the plaintiff by additional issues. Therefore, it will not be proper to allow this application.

8. So far as the case on which the plaintiff has relied, that does not apply to the present case. All those cases are related to the exhibition of documents and the purpose of the exhibition. Those cases are not related to additional oral evidence to prove public documents. Hence, those are not useful to the plaintiff.
9. Considering all the above discussion I am not inclined to allow this application. Hence, I pass the following order.

(5)

ORDER

The application is rejected.

Date :- 15.02.2024

Sd/-
(Rajesh M. Lolge)
Civil Judge, Jr. Division, Naigaon Bz