

Regular Civil Suit No.55/2013
Ratiram Vs. Devkabai

ORDER BELOW EXH. 26
(Passed on 13th of June, 2016)

The defendants have filed this application under Order 11 Rule 12 of C.P.C. for discovery of following documents.

- (i) Copy of partition deed executed between Late Goma and Late Soma.
- (ii) Copy of partition made by Late Goma
- (iii) Copy of order of entry No. 300/59-13/6364 dated 27-09-1969 ar Sr. No.496 dated 12.10.1969.
- (iv) Copy of sale-deed executed by Sadashiv Goma Ramteke in favour of his brother Sitaram.
- (v) Copy of mutation Order No. 496 dated 12.10.1969.
- (vi) Copy of sale-deed in respect of the land and house property situated at Teli Mangli.

2. According to the defendants all the documents cited in this application are in the possession and custody of the plaintiffs. So also, in order to resolve the controversy, these documents are required to be filed on record.

3. By way of reply filed at Exh.40, the plaintiffs have submitted that the partition deed which is alleged to have made between Soma and Goma is not available as it was oral partition.

4. In respect of another document i.e. partition deed made by Goma, the plaintiffs have submitted that the alleged partition was oral and the plaintiffs have supplied the relevant documents in this regard to the plaintiffs. Thus, the order in respect of discovery of these two documents cannot be passed.

5. The plaintiffs have stated that the copies of sale-deeds and the another revenue documents are not available with them. In fact, the

required documents i.e. copy of mutation entry and the copies of alleged sale-deeds are public documents. Therefore, even if the plaintiffs do not produce the same on the requisite demand, the defendants can either get the certified copies thereof or can adduce the secondary evidence in respect of these documents as per law. Thus, the discovery of such document cannot be ordered as this stage.

Having regards to the findings noted above, I proceed to pass the following order.

Order

- (i) The application filed at Exh.26 is hereby rejected.
- (ii) Cost in cause.

Ramtek
Date: 13.06.2016

(Sujitkumar C.Taide)
Civil Judge, Jr.Dn., Ramtek.