

Order Below Exh. 68

Allanoor Pyare V/s Sonubai and others

Read the application and say filed by defendant No. 1. Perused the documents filed on record. Heard both the Counsels.

This is an application filed by plaintiff to issue summons to defendant No. 2 for production of documents. It is submitted on behalf of plaintiff that, the defendant No. 1 is trying to encroach over the lane adjacent to his house. Further it is submitted that, that is the only way available with the plaintiff to approach his house. Defendant No. 1 is taking advantage of the permission given by defendant No.2 .

Mr. Tayde, Ld. Counsel appearing on behalf of defendant No. 1 resisted the application by filing his say. It is submitted that, there is no provision to call the adverse party as a witness. Further it is submitted that, those documents can be filed by the plaintiff.

Perusal of record shows that, defendant No. 2 neither appeared nor filed any application, despite of service of summons. Hence my Ld. Predecessor passed an order below Exh. 1, to proceed the suit ex-parte against defendant No. 2. Plaintiff can file those documents by obtaining certified copies from defendant No. 2. Further-more party to the suit cannot be forced to be a witness in the proceeding or to produce the documents. Hence I find no substance in the application. In result I pass the following order.

ORDER

- 1) Application Exh. 68 stands rejected.
- 2) No order as to costs.

Date : 01/07/2016

(V.C. Gawai)
Jt. Civil Judge J.D.
Pimpalgaon (B)