

MHRG080010852019

Vasima Jalgaonkar & Ors. Vs.
Harbanslal Kukareja & Ors..

ORDER BELOW EXHIBIT NO.55 IN
Regular Civil Suit No. 71/2019

By this application, the plaintiffs have contended that, they have filed certified copy of sale deed dated 04-05-1977 and according to them, same is certified copy of public document. Therefore, they prayed to give Exhibit number to it without examination of parties or witnesses thereof. In order to support their submission, they relied upon State of Haryana Vs. Ram singh AIR 2001, SC 2532 & Madamanchi Ramappa Vs. Muthaluru Bojjappa AIR 1963 SC 1633.

02. on the contrary defendants strongly objected to the application. According to them, Certified copy of Sale deed is not public document and it cannot be Exhibited directly without proof of its execution. Hence they prayed to reject the application.

03. Ld. Advocate for plaintiffs failed to advance his argument. Ld. Advocate for defendants advanced his argument.

04. Perused the record of the case, which discloses that, the instant suit is filed for declaration that sale deed dated 27/05/1977 is null and void and not binding on plaintiffs. The plaintiff no. 1 has examined herself filing evidence affidavit at exhibit no. 41 and thereafter filed instant application with contention that, certified copy of sale deed is a public document and prayed to make it admissible in evidence. Admittedly sale deed is not public document within the meaning of section 74 of the Indian Evidence Act. The Ld. Advocate

MHRG080010852019

for plaintiffs relied upon *State of Haryana Vs. Ram singh AIR 2001, SC 2532* wherein Hon'ble Apex court held that, under section 51A and section 23 of Land Acquisition Act, certified copy of registered agreement for sale is admissible without examination of parties to document. The above ratio clears that, under Land Acquisition Act, certified copy registered document can be admissible in evidence. But this is not a case of Land Acquisition Act for determination of compensation. Therefore provision of section 51-A of the Land Acquisition Act is not applicable to this case. Hence ratio laid down in above cited case law is not helpful to plaintiffs.

05. Further Ld. Advocate for plaintiff relied upon *Madamanchi Ramappa Vs. Muthaluru Bojjappa AIR 1963 SC 1633* wherein Hon'ble Apex Court held that, certified copy of public document admissible in evidence without being proved by calling a witness. There is no dispute about said preposition of law, but nowhere Hon'ble court held that, sale deed is public document and it can be admissible in evidence without proof. Therefore, it cannot be said that, sale deed is a public document. Thus, the ratio laid down in above cited case law is also not helpful to plaintiffs.

06. The provisions of section 68 to 73 of Indian Evidence Act, contemplates the procedure of proof of execution of private document, without which document cannot be held admissible in evidence. In this case without following procedure prescribed under section 68 to 73 of Indian Evidence Act sale deed cannot be admissible in evidence. Therefore, considering the above discussion application of plaintiffs deserve to be rejected. Hence following order :-

MHRG080010852019

R.C.S. 71/2019
(Exh.55)**-:ORDER:-**

Application (Exhibit No.55) is rejected.

(Dictated and pronounced in open court)Date:- 16/01/2023.
Khalapur.**(P.M.Mane)**
Jt. Civil Judge, Jr. Division,
Khalapur.