

CNR Number MHRT 06-001021-2015

Regular Civil Suit Number 120/2015

Jaywant Ganpat Pawar Plaintiff

Versus

Mohan Ganpat PawarDefendant

ORDER BELOW EXHIBIT 49

1. The suit is for declaration and possession. The plaintiff has filed the application vide exhibit 49 and stated that sale-deed dated 1-12-2000 bearing No. DPL-1446/2000 is produced and proved by plaintiff during his evidence. Both the parties have admitted that sale-deed. Hence, it is to be read in evidence and exhibited.

2. The defendant has stated that the application is not maintainable in eyes of law. It is responsibility of plaintiff to prove sale-deed dated 1-12-2000. There is sufficient opportunity to plaintiff to prove that sale-deed. But plaintiff has not proved that sale-deed as per provisions of Indian Evidence Act. Sale-deed dated 1-12-2000 is private document. The plaintiff is trying to fill-up the lacunae which is not allowed by Law. Hence, application is to be rejected.

3. Upon hearing of both sides and on perusal of exhibit 49 and say of defendant the following points arise for my consideration –

Sr. No.	Points	Findings
1.	Does plainatiff entitle for relief of exhibiting the sale-deed dated 01-12-2000 and to be read in evidence ?	No.
2.	What is Order ?	The application is rejected.

Reasons

As to point number 1 and 2 –

4. The point number 1 and 2 are interlinked with each other. I have clubbed point number 1 and 2 together and discussed accordingly. The suit is for declaration and possession. The plainatiff has stated in application that sale-deed dated 1-12-2000 is to be exhibited and read in evidence of plaintiff. The defendant has stated in his say that sale-deed dated 1-12-2000 is not duly proved as per provisions of Indian Evidence Act. Hence application is to be rejected.

5. This Court has perused the record and proceeding of present suit minutely. It reveals on perusal of cross-examination of defendant vide Exh-46 that sale-deed dated 1-12-2000 is shown to defendant by plaintiff. It is verified copy of that sale-deed. The Assistant Superintendant of court at Dapoli has verified it. It is referred during cross examination and exhibited as 48 for identification only. This Court has also perused application vide Exh-23 filed by plaintiff for verification of sale-deed dated 1-12-2000. It reveals that original sale-deed dated 1-12-2000 is return to the plaintiff and verified copy is

kept on record. The plaintiff has received original sale-deed dated 1-12-2000. His signature is obtained to that effect vide Exh-20. According to Section 101 and 102 of Indian Evidence Act burden of proving sale-deed dated 1-12-2000 is on plaintiff. Therefore, it is for the plaintiff to prove that sale-deed as per provisions of Indian Evidence Act. There is opportunity to plaintiff to prove sale-deed dated 1-12-2000 by strictly adhering to provision of Indian Evidence Act. Moreover the Advocate of plaintiff has referred verified copy of that sale-deed during cross-examination of defendant. It is exhibited subject to condition that contents of that verified copy of sale-deed dated 1-12-2000 are to be proved by plaintiff. It reveals that plaintiff has not proved contents of verified copy of sale-deed dated 1-12-2000 as per provisions of Indian Evidence Act. Hence, it cannot be said that plaintiff has proved sale-deed dated 1-12-2000 during his evidence. It is settled position of Law that mere exhibiting the document does not despende with its proof. Therefore, it is for plaintiff to prove the contents of sale-deed dated 1-12-2000. Unless the contents of sale-deed dated 1-12-2000 are proved by plaintiff as per Indian Evidence Act, it cannot be read in evidence. Hence, application is not maintainable. In the result following order is passed.

Order

1. The application vide exhibit 49 is rejected.

Dapoli
Date 03/12/2021.

Sd/xxx
K. A. Katkar
Joint Civil Judge J.D,
Dapoli.

C E R T I F I C A T E :-

I affirm that the contents of this pdf file of judgment are same words as per original judgment.

Case No.	R.C.S.No 120/2015
Name of Stenographer	: R.K.Sangare.
Court Name	: Smt. K. A. Katkar
	Jt. Civil Judge, J.D., Dapoli
Date of order	: 03/12/2021
Judgment Signed by P.O. on	: 03/12/2021
Judgment uploaded on	: 03/12/2021