

ORDER BELOW EXH.143

The present application is filed by the plaintiff with a prayer to return the original Will which is filed on record vide Exh.71 on 30/12/2016. It is the contention of the plaintiff that the said original Will is required to be produced in Special Civil Suit No. 52/2016 which is pending before the Hon'ble Court of Civil Judge Senior Division.

2. Per contra, the defendant has filed say opposing the application contending that the present suit itself is based upon the said Will and therefore, the same cannot be returned.

3. Record perused. It is true that the present suit is based on the Will and the same is part of the record. However, it is equally true that the Will is a document which belongs to the plaintiff and if the same is required to be produced in another judicial proceeding, an opportunity for the same can be granted by taking necessary precautions to ensure that its evidentiary value in the present matter remains unaffected.

4. In the present case, no prejudice would be caused to the defendant if the original Will is returned to the plaintiff, provided that a certified true copy of the Will is taken on record with due verification. Accordingly, to safeguard the interest of justice, the original Will filed at Exh. 71 is allowed to be returned to the plaintiff, subject to the condition that the plaintiff shall submit a true copy of the said Will duly verified by the Assistant Superintendent of this Court with endorsement "Verified from the original" before the original is returned.

5. It is made clear that the verified true copy so submitted shall form part of the record of the present suit and can be relied upon for all evidentiary purposes as per law, unless any contrary objection is raised and sustained during trial.

ORDER

1. Application at Exh. 143 is allowed.
2. Original Will filed at Exh. 71 be returned to the plaintiff, after taking on record a true copy thereof with endorsement "Verified from the original" by the Assistant Superintendent of this Court.

Kankavali
Date: 18/07/2025

(Shubham G. Laturiya)
Civil Judge J.D., Kankavli
JO Code: - MH03297