

ORDER BELOW EXH.122

IN

Spl.C.S.No.87 OF 2010

(IA-1/2019)

(CNR NO.MH06-0002802010)

By this application the plaintiff has prayed to issue witness summons to the Sub-Registrar for the purpose to adduce evidence in respect of Will dt.07.07.1989.

2. The application is opposed by the defendants.

3. Read application and reply filed. No argument of the plaintiff. Heard the Advocate for the defendants. The plaintiff has sought witness summons to prove the will dt.07.07.1989 contending that, this will has been executed before the concern Sub-Registrar and therefore, his evidence is necessary to prove this document. Accordingly, witness summons has been prayed.

4. Read Exh.118 by which plaintiff has applied for witness summons on Mr.Govind Kumbhar contending that, said Mr.Govind is attesting witness of the said Will. The report of Bailiff at Exh.119 shows that, said witness is alive but has failed to accept the service of witness summons. In view of Section 68 of the Evidence Act the examination of attesting witness is necessary in respect of proving of Will. The plaintiff is attempting to examine the Sub-Registrar in respect of Will. When the attesting witness is available there is no purpose to issue witness summons to Sub-Registrar. In my view the application cannot be allowed. The plaintiff should prove the Will through attesting witness. In the result, I pass following order;

ORDER

1. The application Exh.122 is rejected.
2. The plaintiff in view of above order shall take steps in respect of attesting witness, if required.

Sd/-

Pandharpur
Date:-03.07.2019

(R.A.Sasne)
Civil Judge Senior Division,
Pandharpur

CERTIFICATE

I affirm that, the contents of the this P.D.F file Order/Judgment are same word to word, as per the original order/ judgment

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Pandharpur
Date : 03-07-2019

Order/Judgment signed
by the Presiding Officer on : 03-07-2019

Order uploaded on : 03-07-2019