

ORDER BELOW EXHIBIT-99 IN R.C.S.No.577 of 2007

Defendant No.1 has filed this application for seeking permission to lead secondary evidence with respect to the application and notice filed below Exh.80 at serial Nos.4 & 5.

2. Defendant in his written statement stated that predecessors of defendant No.2 has filed application before Talathi dated 23.12.1993 to register name of his wife Girijabai over the land in Gat No.245. Accordingly, mutation entry No.411 was effected. Further defendant No.2 sold some land from Gat No.245. Defendant No.1 on 11/12/2007 has prepared false document by stating that Vishwanath Bhiva Sankpal died on 02/02/1993. Defendants in support of their contention have filed certified copy of the application dated 23/12/1993 and notice vide Exh.80 at serial Nos.4 & 5 respectively. Defendants have requested Tehsildar for producing file with respect to mutation entry No.411 but Gavkamgar Talathi has filed report that file is not available with the record office.

3. Defendants further stated that plaintiff has collusively lost the file, due to which he has prayed certified copies of the application and notice. Hence prayed for adducing secondary evidence to that effect.

4. Plaintiff filed say on the said application. He stated that the contents of the application are false. Tehsildar has no such documents. Defendant has filed application on 23/12/1993 i.e. after 11 months of death of Vishwanath Sankpal. Hence prayed for rejection.

5. Perused application and say. It reveals that defendant has filed certified copy of Talathi Zaregaon dated 27/02/2019, letter of Tehsildar dated 07/03/2019 vide Exh.98 and letter of Tehsildar addressed to Mandaladhikari Barshi dated 04/02/2019. The above documents show that the record with respect to mutation entry No.411 is not available with them. Accordingly defendant has sought permission through this application to lead secondary evidence as the original record is not available with the consent office. There will be no harm to the plaintiff if the application is allowed as he will have opportunity to challenge during the course of trial. Therefore, considering all the above facts the application deserves to be allowed. Accordingly I pass the following order :

ORDER

1. Application is allowed.
2. Defendant No.1 is allowed to lead secondary evidence as prayed in the application.

Date : 30.12.2019.

(J. A. Zari)
Jt. Civil Judge (J.D.),
Barshi.

CERTIFICATE

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

Name of Stenographer : A.S.Magnur.

Court Name : J.A.Zari,
Jt.C.J.J.D.& J.M.F.C. Barshi.

Date : 30.12.2019.

Order signed by the
presiding officer on : 30.12.2019.

Order uploaded on : 30.12.2019.