

MHST01-000731-2021

**ORDER BELOW EXH.21 IN REGULAR CIVIL APPEAL NO. 26/2021
(Balkrushna Yadav Vs. Uttam Uadav (Deceased) thr. LRs. & Ors.)**

In the instant application, the appellant prayed to admit the document in evidence which is produced along with Exh.19.

02. The learned Counsel for the appellant submitted that the subject matter of the suit is situated at village Durgalwadi, Tal. Koregaon, Dist. Satara. In said village, the scheme of the city survey was not implemented. The appellant obtained document under R.T.I. Act. He produced the said document along with Exh.19. The respondent did not object its production. Hence, said document be read in evidence.

03. Per contra, Mr.S.J. Dange , the learned Counsel for the respondent submitted that the document obtained under the provisions of R.T.I. Act, will not become public document. The said document was not produced before the learned Trial Court. Unless said document is proved, it cannot be read in evidence. Hence, he prayed to dismiss the application.

04. It is important to note that the learned Counsel for the respondent did not object the production of the document as per the say filed below Exh.19. The document is a letter issued by the Deputy Superintendent of Land Record. So, it cannot be said that the said information was not available during the trial of the suit. Therefore, whether this document is necessary to enable this Court to pronounce judgment ? It can be decided at the time of final argument of the appeal. Hence, this application needs to be decided along with the main appeal.

05. In this context, it will be fruitful to refer the decision of the Hon'ble Supreme Court in the case of ***Union of India Vs. Ibrahim Uddin 2012(5) ALL MR 462 S.C.***, wherein the Hon'ble Apex Court observed that additional evidence can be received at the appellate stage only in exceptional circumstances. Appellate Court cannot allow fresh evidence for removing the lacuna. Such application needs to be considered along with the main appeal.

06. In view of the ratio laid down in the aforesaid case, the application needs to be considered along with the main appeal. Accordingly, application will be decided along with the main appeal.

Date: 08.08.2025
Place : Satara.

(S.R.Tamboli)
District Judge-2
Satara.