

CNR NO.MHST-0500 0007 1991

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD

ORDER BELOW EXH. 201

IN

R.C.S. NO.194 OF 1991

Prakash Jagannath Jadhav.

...Plaintiff.

Versus1. Jagannath Bapu Jadhav
(deleted since deceased)

...Defendants.

1A. Prakash Jagannath Jadhav & Ors.

Advocate Shri. U. L. Patil for the plaintiff.

Advocate Shri. P. H. Chavan for the defendant Nos.3, 4 and 7

Advocate Shri. M. S. Bhosale for the defendant Nos.5, 6.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 16/07/2024**ORAL ORDER :**

This is an application filed by Ld. advocate for the defendant Nos.3, 4 and 7 for permission to produce the documents mentioned in the document list at Exh.202 and its exhibition.

2. Perused the application and handwritten say filed by the Ld. holding Advocate for the plaintiff on the application overleaf. Heard Ld. Advocate for both sides.

3. It appears from the record that plaintiff has filed suit against defendants for partition, separate possession, declaration and perpetual injunction on the ground specifically mentioned in the plaint. After service of writ of summons defendants appeared and filed their written statement. My Ld. Predecessor framed issues. Plaintiff adduced his evidence. At present the cross of PW.1 at Exh.189 is going on. Meanwhile, present application has been filed by above mentioned defendants for the reasons specifically mentioned in the application.

4. As per the argument of Ld. Advocate for the defendants they by way of present application seek permission to produce documents and its exhibition. The some of the documents mentioned in document list at Exh.202 are public document and remaining documents are correspondence between the parties and these documents are helpful to them at the time of cross examination and their final argument. The alleged documents are necessary to determine the real question in controversy involved in the suit. Defendants are producing some certificates issued by Head Master of the school, Sub-Registrar of Birth and Death Registration and original notices issued by plaintiff. If present application allowed, no prejudice would be caused to the plaintiff. Plaintiff can get an opportunity to cross examine the opposite side witness and also argue on these documents. The said documents are related to the issues involved in the suit and the real controversy between the parties. It appears from record that whatever documents produced alongwith present application were not produced by the defendants at earlier stage, therefore, they are seeking permission from the Court to produce it alongwith present application. As per Order VIII Rule 1-A sub-clause (3) of the Code of Civil Procedure, 1908, a document which ought to be produced in Court by the defendant under this Rule, but, is not so produced shall not, without the leave of the Court be received in evidence in his behalf at the hearing of the suit. Whatever documents produced by the defendants alongwith document list at Exh.202 are the documents on which they want to rely, and to support their cross examination / argument/ contentions in the written statement. The said documents are necessary for the purpose of determining the real question in controversy between the parties in the suit. Moreover, it is necessary to give full and fair opportunity to both the parties to prove their contentions in the plaint and written statement. Therefore, I

found substance in the submission made in the present application. I have gone through the documents annexed with the document list at Exh.202. Out of these documents there are two original certificates issued by Head Master of the school and one birth certificate issued by Sub-Registrar of Birth and Death certificate and two notices are issued by the advocate of plaintiff to the defendant No.1. All the documents are original. All the documents are come from original custody. At the time of argument the Ld. Advocate for defendants submitted that certificates are public documents and notices issued by plaintiff to defendant No.1. Ld. Holding advocate for the plaintiff admitted the argument of defendants' side. Being original documents and coming from proper custody these documents are admissible in evidence. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.201 is allowed as follows.
2. Permission is granted to the defendants to produce the documents in support of their contentions in written statement, cross examination and they want to rely at the time of final argument.
3. Senior clerk of this Court is hereby directed to give the exhibit numbers to the documents produced by defendants alongwith document list Exh.202 on record.

Date : 16/07/2024.

[S. B. Todkar]
Civil Judge, S.D. Karad.