

CNR NO.MHST-0500 0760 2024
IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.26
IN
Civ. M.A.No.80/2024

1. Smt. Anandibai Dattu Shinde & Ors.	...Applicants.
<i>Versus</i>	
1. Smt. Subhadra Sahdev Marathe & Anr.	...Respondents.

Advocate Shri. C. J. Gaikwad for the applicants.

Advocate Smt. B. M. Panskar for the respondents.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 19/03/2025

ORAL ORDER :

This is an application filed by Ld. advocate for the respondent No.1 for permission to produce the documents mentioned in the document list at Exh.27 and for its exhibitions.

2. Perused the application and handwritten say filed by the applicant's Ld. advocate on the application overleaf. Heard Ld. Advocate for both sides.

3. It appears from the record that applicants have filed original Civ. M.A. against respondents for heirship certificate on the grounds specifically mentioned in the application. Notices were served upon the respondents. They appeared and filed their say on record. As matter is pending for hearing. Thereafter, on behalf of respondent No.1 present application for production of documents and for its exhibition is filed by their Ld. advocate on the grounds specifically mentioned in the application.

4. As per the argument of Ld. Advocate for the respondent

No.1 he by way of present application seek permission to produce documents, which are helpful to him at the time of final hearing of application. The alleged documents are necessary to determine the real question in controversy involved in the main application. Respondent No.1 is producing mutation entries of entry No.79, 151, 153, 173, 360, 212 and other xerox copies of collection register, judgment and affidavit produced before S.D.O. Patan. If present application allowed, no prejudice would be caused to the applicants. Applicants can get an opportunity to argue on this documents. The said documents are related to the issues involved in the main application. It appears from record that whatever documents produced alongwith present application were not produced by the respondent No.1 at earlier stage, therefore, he is 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 document produced by the respondent No.1 alongwith the Exh.27 document list are the document on which he wants to rely, to support his final argument. The said documents are necessary for the purpose of determining the real question in controversy between the parties in the main application. Moreover, it is necessary to give full and fair opportunity to both the parties to prove their contentions in the application or reply. Therefore, I found substance in the submission made in the present application. The respondent No.1 has filed documents at Sr.No.1 to 6 alongwith document list Exh.27 are extract of mutation. They are public documents. Being public documents they are admissible in evidence.

They have come from proper custody. Hence, they may be marked as exhibits. The respondent No.1 has filed documents at Sr.No.7 to 9 alongwith document list Exh.27 are xerox copies. Though these documents come from proper custody but being xerox copies they are not admissible in evidence. Hence, they cannot be marked as exhibits. Hence, I proceed to pass the following order.

ORDER

1. Application below Exh.26 is partly allowed.
2. Permission is granted to the respondent No.1 to produce the document mentioned in doc. list Exh.27 in support of his argument/ final hearing of the main application.
3. The bench clerk of this Court is hereby directed to give exhibits to the documents at Sr. No.1 to 6 produced by respondent No.1 alongwith doc. List Exh.27.
- 4 The prayer of exhibition of the documents at Sr.No.7 to 9 produced by respondent No.1 alongwith doc.list Exh.27 is hereby rejected.

Date : 19/03/2025.

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