

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.28
IN
PROBATE NO.17 OF 2021

Vrushabh Popat Pawar ...Applicant.

Versus

Nil. ...Respondent.

Ramesh Baburao Mane & Ors. Third party.

Advocate Shri. A. T. Madane for the applicant.

Advocate Shri. N. S. Patil for the third party.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 06/09/2024

ORAL ORDER :

This is an application filed by Ld. Advocate for third parties for permission to produce the documents mentioned in the document list at Exh.29.

2. Perused the application and detailed say filed by the applicant's Ld. advocate at Exh.30. Heard Ld. Advocate for both sides.

3. It appears from the record that applicant has filed original petition against unknown person for probate on the grounds specifically mentioned in the application. After publication of citation and publication notice third parties appeared before Court by filing appearance of their advocate at Exh.19 and filed third party application below Exh.22 for permission to insert them as a respondents. As per roznama matter is pending for hearing on Exh.22 i.e. third party application. At that time, on behalf of third party present application is filed.

4. As per the argument of Ld. Advocate for the third party they by way of present application seek permission to produce document, which is helpful to them at the time of hearing of their interim application. The alleged document is necessary to determine

the real question in controversy involved in the interim application. Third parties are producing copy of Exh.1 of R.C.S. No.284 of 2022 alongwith document list Exh.29. If present application allowed, no prejudice would be caused to the applicant. Applicant can get an opportunity to argue on this document. The said document is related to the issues involved in the interim application and the real controversy between the parties. It appears from record that whatever document produced alongwith present application was not produced by the third parties at the time of filing their interim application, 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 document produced by the respondent alongwith the present application is the document on which they want to rely, to support their hearing of interim application. The said document is necessary for the purpose of determining the real question in controversy between the parties in the interim 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. Hence, I proceed to pass the following order.

ORDER

1. Application is allowed.
2. Permission is granted to the third party to produce the document which is annexed with document list Exh.29 in support of their hearing on interim application.

Date : 09/07/2024.

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