

CNR No.MHST070025062006



Order below Exh.140 in R.C.S No. 394/2006

(Govind Deshpande Vs Tanaji Shinde +5)

Defendant no.5 filed his affidavit – in lieu of the evidence Exh.133. Along with Exh.39 an original copy of registered Gift Deed dated 30.07.1945 is filed on record. The document is old more than 30 years. The executor, beneficiary the attesting witnesses and the draftsman are not alive. The present witness is the successor / legal heir of the beneficiary of such Gift Deed i.e. Tanaji Gopala Shinde. Thereby the document is come from the proper and genuine custody. Therefore, the defendants prayed to exhibit the original copy of registered Gift Deed, in view of presumption envisaged in Section 90 of the Indian Evidence Act, 1872.

02. Perused the application, reply Exh.141, the record. Heard both the learned advocates.

03. On behalf of the plaintiff, it is alleged that they have no objection to exhibit the document as the execution of the document is not disputed. However, they have denied the contention that the contents of the document shall be proved.

04. After going through the contentions of the rival parties, it discloses that the document is admittedly more than 30 years old document. The applicant is the successor of the Execute i.e. the Donee. Therefore, the document is brought on record by the proper custody. Moreover, the plaintiff has not challenged the execution of Gift Deed. Thereby, in view of Section 90 of the Indian Evidence Act, 1872, the execution signatures of the executors are presumed to be genuine. The parties to the document, its witnesses and the person who draft the contents are not in

existence. Therefore, being a 30 years old document, it is requires to be exhibited. It is a settled principle of law that mere exhibition of document does not the proof of its contents. The same shall be governed by the provisions of the Indian Evidence Act, 1872. Therefore, to the extent of exhibiting the document the application is allowed. The appreciation as to the genuineness and applying the presumption and proof of document shall be considered at the final adjudication of the proof. Hence, I pass following order -

ORDER

The Gift Deed dated 30.07.1945 be exhibited.

Place : Karad.
Date : 29.01.2025.

(Sudhir M. Bomidwar)
Jt. Civil Judge, Jr.Dn., Karad.