

ORDER BELOW EXH.21 IN R.C.S. NO.29/2019

(Janardhan Panjabrao Dandhale Vs. Laxman Thanya Ingale)

1. Plaintiff has moved the present application and claimed for permission to adduce secondary evidence regarding the sale deed 20/03/1970. It is contended that, the uncle of plaintiff i.e. Vyankatrao has purchased the suit property by way of above sale deed. Further, the original sale deed is been lost and so certified copy of sale deed is filed on record. Hence, plaintiff has sought permission to adduce the secondary evidence.
2. The defendant has filed say and contended that, the application is not tenable, certified copy of registered sale deed is not public document. He has also contended that, plaintiff has to follow proper procedure to lead secondary evidence and hence, he prayed for rejection of application.
3. Perused the record. The present suit is for declaration of ownership and perpetual injunction. Further, the plaintiff is contending that, the Vyankatrao was his uncle and he has died issueless. Furthermore, the Vyankatrao has purchased the suit property by way of sale deed dated 20/03/1970. The plaintiff is contending that, said sale deed is lost and certified copy of sale deed is filed on record. per contra, the Ld. advocate for the defendant has submitted that, certified copy of sale deed is not a public document. Further, he has relied upon ruling of Hon'ble Bombay High Court in the case of Karthik Gangadhar Bhatt Vs. Nirmala Namdeo Wagh.

4. Section 65 of the Evidence Act deals with the provisions regarding cases in which secondary evidence relating to documents. As per Section 65, Clause (f) when the original is a document of which a certified copy is permitted then secondary evidence can be given. In the present matter, certified copy of sale deed is filed on record. Hence, considering the nature of dispute and the fact that the original sale deed is not available to the plaintiff, I hold that, plaintiff has to be permitted to adduce secondary evidence. Further, the ruling cited i.e. Karthik Bhatt (*Supra*), it is held that, application for permission to lead secondary evidence is not necessary. Said ruling is on another point. So considering all above aspects I proceed to pass the following order.

ORDER

1. Application is allowed.
2. Plaintiff are permitted to adduce secondary evidence regarding sale deed dated 20/03/1970.

Karanja (Gh.)
Date:- 29/07/2022

(V.S. Wagh)
Civil Judge, Jr. Division,
Karanja (Gh.), Dist. Wardha.