

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 23rd OF NOVEMBER, 2022

MISC. PETITION No. 5674 of 2022

BETWEEN:-

**JITENDRA NAGAL S/O SHRI MOHANLALJI NAGAL,
AGED ABOUT 47 YEARS, OCCUPATION: BUSINESS 66
NAGARWAS RATLAM (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI BRIJESH GARG, ADVOCATE)

AND

**ASHOK S/O MANKLALJI PIPADA, AGED ABOUT 61
1. YEARS, OCCUPATION: BUSINESS NEUROD, RATLAM
(MADHYA PRADESH)**

**ABHAY KUMAR S/O MANAK LAL JI PIPADA, AGED
2. ABOUT 60 YEARS, OCCUPATION: VYAPAR NEWROAD
RATLAM (MADHYA PRADESH)**

**SMT. SARITA W/O ASHOK JI PIPADA, AGED ABOUT 61
3. YEARS, OCCUPATION: HOUSEWORK NEWROAD,
RATLAM (MADHYA PRADESH)**

**SMT. JYOTI W/O RAMESHCHANDRA JI PIPADA, AGED
4. ABOUT 52 YEARS, OCCUPATION: HOUSEWORK
NEWROAD, RATLAM (MADHYA PRADESH)**

**5. THE STATE OF MADHYA PRADESH THROUGH
COLLECTOR RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VISHAL BAHETI, ADVOCATE)

*This petition coming on for admission/orders this day, the court
passed the following:*

ORDER

01. This petition has been filed by the petitioner/plaintiff under Article 227 of the Constitution of India against the order dated 12/11/2022 passed in case No. RSC-A/24/2015 by the Principal District Judge, Ratlam whereby the petitioner's objection regarding admissibility of the document has been rejected and a copy of the agreement dated 02/06/2014 has been allowed to be exhibited.

02. The case of the petitioner is that a civil suit for specific performance of contract has been filed on the basis of an agreement dated 02/06/2011 Ex.P/1. In the aforesaid suit, while cross examining the plaintiff's witness PW/1 Jitendra, a document, said to be a copy of the agreement Ex.P/1 was sought to be proved which has been allowed to be exhibited by the Trial Court despite an objection by the petitioner.

03. Learned counsel for the petitioner has submitted that the aforesaid document is a photocopy of Ex.P/1, and on Ex.P/1, the petitioner has paid proper stamp duty of more than Rs.11 Lakhs and only after that, it has been exhibited, however, the respondents are trying to bring a document on record which is not duly stamped and which is also the photocopy of the original document. Thus, it is submitted that the learned Judge of the Trial Court has erred in allowing the respondents to exhibit the aforesaid document and thus, the same is liable to be set aside.

04. In support of his submissions, Shri Brijesh Garg, counsel for the petitioner has relied upon the decisions rendered by the Hon'ble

Supreme Court in the case of *Smt. Yashoda v. Smt. K. Shobha Rani* reported as *AIR 2007 SC 1721* as also the decisions rendered in the cases of *Hariom Agrawal vs. Prakash Chand Malviya* reported as *2008 (I) MPJR (SC) 1*; *Haji Mohd. Islam and another v. Asgar Ali and another* reported as *AIR 2007 Madhya Pradesh 157*; *Ratanlal s/o Bagdu vs. Kishanlal s/o Mangilal and others* reported as *2012(1) MPLJ 120*; *Raghuveer Singh and others v. Smt. Ramasundari and others* reported as *2016 (2) RN 281 (HIGH COURT)*.

05. On the other hand, learned counsel for the respondents, has opposed the prayer and it is submitted that the document which has been allowed to be proved by the Trial Court is not the photocopy but is the second copy of the original agreement Ex.P/1, having original signature of S.K. Jain who is a witness to the aforesaid document, which is also apparent from Ex.P/1 on which also, the said witness S.K. Jain has signed. It is further submitted that when the aforesaid document was prepared, a copy of the same was also given to the respondent/defendant and it was originally signed by the said witness S.K. Jain and the respondent as well. Counsel has also submitted that in the original document Ex.P/1, below the signature of the respondent, the petitioner has fraudulently mentioned the words '*power of attorney*', in order to cheat and in such circumstances, it would be necessary for the respondents to bring on record the second true copy of the document as there is no reference in the original document itself that the respondent Ashok S/o Manaklal Pipada signed the document as a power of attorney holder and the stamp was also purchased in the individual capacity. Thus, it is submitted that no

illegality has been committed by the learned Judge of the Trial Court in exhibiting the document and no interference is called for.

06. Heard learned counsel for the parties and perused the record.

07. From the record, it is apparent that the documents which is sought to be proved by the defendant is the copy of the Agreement Ex.P/1 dated 02.6.2014, and it is contended by the defendant that certain interpolations have been made in the original document whereas, in the second copy of the said document in which it is stated that the parties have signed in original, no such interpolations are visible. Copy of the document proved, which has been allowed by the learned Judge of the trial court to be exhibited has also been shown to this Court for its comparison with the original document and on perusal, this Court is not inclined to entertain this petition as the document in question which has been allowed by the trial court to be exhibited, is a second copy, on which the signatures in original have been appended by the parties.

08. So far as the payment of the stamp duty on the said document is concerned, since the Agreement (Ex.P/1) which is the original document, has already been duly stamped by the plaintiff himself, the same agreement is not required to be stamped twice as the stamp duty is liable to be paid only once, on the original document.

09. *So far as the decisions relied upon by the counsel for the petitioner are concerned, in none of the decisions the validity of the second copy of an Agreement, on which the parties have signed in original, was challenged and thus, it is not a case where the issue is*

of admissibility of a photocopy, but the admissibility of the second copy on which the parties have signed in original. In view of the same, the decisions cited by the counsel for the petitioner are of no avail to the petitioner.

10. Resultantly, the petition being devoid of merits, is hereby **dismissed** and the impugned order dated 12.11.2022 passed by the learned Judge of the trial court is hereby affirmed. The learned Judge of the trial court is also requested to proceed further in accordance with law.

(SUBHODH ABHAYANKAR)

JUDGE

krjoshi