

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
--	--	---------------	----------------------------

APPEAL FROM ORDER NO. 60 OF 2015
WITH CA/7215/2015 IN AO/60/2015

SHAIKH RAZZAK SHAIKH HABIB AND ANOTHER
VERSUS
ADIVTA RAJENDRA TATED

...
Advocate for Petitioners : Mrs. Ansari A.N.
Advocate for Respondent: Mr. Santosh G. Chapalgaonkar.

CORAM: T. V. NALAWADE, J.
DATED: 23rd JULY. 2015.

PER COURT:

1. This appeal is filed to challenge the order made by learned Civil Judge, Senior Division, Ambajogai in Special Civil Suit No.6 of 2015, at Exhibit-5. The trial Court has refused the relief of injunction prayed by the plaintiffs. Plaintiffs had requested to restrain the defendant from alienating the suit property in any way. Both sides are heard.
2. It is the case of the plaintiffs that initially there was oral agreement between them and the defendant and

under the agreement they had given amount of Rs.3 Lakhs as consideration to the defendant. By using this amount, the defendant purchased the suit property. It is the case of the plaintiffs that the written agreement was made in November, 2014 and the defendant agreed to sale the property before 5th January, 2015. It is the case of the plaintiffs that the amount of Rs.10 Lakh was paid and the amount of Rs.1 Lakh was to be paid to the defendant for getting the sale deed executed. As the defendant avoided to execute the sale deed, the suit came to be filed.

3. In the suit, the plaintiffs have produced one agreement made on General Stamp of Rs.100/-. The defendant has contended that he has not executed this document. There is one receipt also in respect of payment of part consideration.

4. The trial Court has refused the relief of injunction by holding that the document is not registered when there is contention of the plaintiff that possession is given under the agreement. There is one more circumstance like non-payment of the stamp duty on so called written agreement. When stamp duty is required

to be paid on document and it is not paid, the document cannot be read in evidence. For making the evidence of document admissible some procedure is required to be followed by the party who wants to rely on the document. Thus, the first thing that the document was unregistered was against the plaintiffs and the second thing was that the stamp duty was not paid on the document. In view of these circumstances, no relief was granted by the trial Court. This Court sees no reason to interfere in the order at Exhibit-5.

5. In the result, the appeal stands dismissed.

6. In view of final disposal of the Appeal from Order, the civil application No.7215 of 2015 stands disposed of.

[T. V. NALAWADE, J.]

Dt.23/07/2015
ans/60