

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.7514 OF 2014

Alka w/o Subhash Kosisa
Age 45 years, Occu. Household,
R/o Old Mondha, Aurangabad

.. Petitioner

Versus

1. Shankar s/o Sadashiv Bhairav
Age major, Occu. Business
R/o Khadkeshwar, Aurangabad
2. Shashikant Kothekar,
Chairman, Shakuntal Sahakari
Gruha Nirman Society, Plot No.15,
Shahnoorwadi, Aurangabad
3. Narendrasingh Preetamsingh
Chatwal, Age Major, Occu.Business,
R/o Plot No.81, Jyotinagar,
Aurangabad

.. Respondents

Mr M.D. Joshi, Advocate for petitioner
Mr V.V. Dhawale, Advocate for respondent No.2
Mr K.J. Suryawanshi, Advocate for respondent No.3

CORAM : N.W. SAMBRE, J.

DATE : 18th November 2015

PER COURT

Heard.

2. The petitioner has questioned the order passed by the Member, Maharashtra State Co-operative Appellate Court, Mumbai, Bench Aurangabad, in Revision No.28 of 2013 whereby the revisional Court has ordered impounding of the instrument dated 24th September 1994 pursuant to an application to that effect preferred by the petitioner.

3. The claim that is sought to be put forth by learned Counsel for the petitioner Mr Joshi that once the document is exhibited, it is not open for the said Court or the revisional Court to impound the same. According to him, issue if any, of such a nature of the matter can be either looked into in an appeal or an appropriate stage of the suit i.e. final hearing. He would then urge that the issue is squarely covered by the judgment of this Court in Writ Petition No.4865 of 2005, decided on 24th April 2007 (Janta Shikshan Prasarak Mandal's B.N. College of Engineering, Pusad Vs. Namdeo Bapuraoji Vaidya).

4. While opposing the prayer, Mr Suryawanshi, learned Counsel for respondent No.3 would urge that the order of impounding is an invitation itself by the petitioner, as the petitioner herself moved an application in C.C. No.13 of 2007 in which she has disputed, pending on the file of Co-operative Court, Aurangabad. According to him, the petitioner cannot blow hot and cold at the same time, i.e. to say before the Co-operative Court, she herself made prayer for impounding the instrument dated 24th September 2014 and before this Court she is claiming contrary to same.

5. Having considered the rival submissions, it is required to be noted that it is settled position of law that once the document is exhibited during the evidence subsequent thereto, it is not open for the Court to order impounding.

6. Whereas, in the present case, it is required to be noted that the order of impounding is invited by the petitioner herself, perhaps with an intention to prolong the proceedings or to take benefit of the same.

7. In my opinion, the petitioner cannot take benefit of his own wrong.

8. As such, no case for interference is made out. Writ Petition stands dismissed.

(N.W. SAMBRE, J.)

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