

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1923 OF 2015

Jaypal Aannu Ghat ... Petitioner
Vs.
Dhanpal Aannu Ghat ... Respondent

Mr. Vijay Killedar for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : 18TH JUNE, 2015

P.C. :

Heard Mr. Killedar, learned Counsel for petitioner.

2. By this Petition under Article 227 of the Constitution of India, original defendant has challenged the judgment and order dated 24.09.2014 passed by the learned Joint Civil Judge, Junior Division, Kurundwad below exhibit-17 in Regular Civil Suit No.4 of 2011. By that order, the learned trial Judge overruled the objections raised by the defendant as regards admissibility of document dated 17.02.1987 styled as 'Vatanipatra'.

3. In support of this Petition, Mr. Killedar submitted that by a Partition Deed dated 17.02.1987, partition is actually effected. The said document is neither duly registered nor requisite stamp duty is paid on that document. The said document is, therefore, inadmissible in evidence. He has taken me through the Partition Deed dated 17.02.1987 as also the objections raised by the petitioner and the impugned order. He reiterated submissions that were advanced before the trial Court and submitted that the learned trial Judge committed error in admitting that document in evidence.

4. In paragraph 3 of the order, the learned trial Judge considered the recitals in the document dated 17.02.1987 and held that the document records the acts that are taken place in the past, and therefore, it is memo of partition and does not require registration. Hence, admissible in evidence. After perusing the document dated 17.02.1987, I do not find that the learned trial Judge has committed any error in admitting the document in evidence. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) C.P.C.

(R. G. KETKAR, J.)

Minal Parab