

husband of defendant. He is one of the witnesses to the agreement of sale dated 02/08/2011. The plaintiff examined Ram Bapu Ghaydar as P.W.4. During the course of examination in chief, he denied that in respect of the suit property, any transaction was entered into between plaintiff and defendant and that he is the witness to the said transaction. The plaintiff, therefore, made application seeking permission of the Court to cross examine him.

4. Mr.Walvekar submitted that perusal of the evidence of P.W.4 shows that he denied the transaction. He, however, did not deny signature as a witness. He submitted that the moot question is whether the transaction between the parties is a loan transaction as contended by the defendant or is the agreement of sale as contended by the plaintiff and that whether plaintiff has misused the signatures on blank paper. He, therefore, submitted that as P.W.4 did not deny his signature, the learned trial Judge was not justified in allowing the application.

5. I have considered the submissions advanced by Mr.Walvekar. I have also perused the material on record. As noted earlier, plaintiff has instituted Suit for specific performance of agreements dated 02/08/2011 and 09/03/2012. The case of the plaintiff is that P.W.4- Ram Bapu Ghaydar is a witness to the agreement of sale dated 02/08/2011. P.W.4, however, denied that plaintiff and defendant entered into any agreement and that he is

witness to that agreement. Section 154 of the Indian Evidence Act, 1872 (for short 'Act') reads thus:

“154. Question by party to his own witness.—

(1) The Court may, in its discretion, permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party [(2) Nothing in this section shall disentitle the person so permitted under sub-section (1), to rely on any part of the evidence of such witness.]”

6. Perusal of Section 154 empowers the Court to permit the person who calls a witness to put any question to him which might be put in cross examination by the adverse party. In view of the deposition of the P.W.4 , plaintiff filed application for permission to cross examine P.W.4. After perusing the part of deposition of the P.W.4, I do not find that the learned trial Judge committed any error in exercising discretion under Section 154 of the Act. In view thereof, no case is made out for invocation of powers under Article 227 of the Constitution of India. 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) of C.P.C.

(R.G.KETKAR, J.)