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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9522 OF 2014

Nasruddin Kamruddin Ansari Petitioner

Versus

Joint Sub Registrar (Class-2) and ors Respondents

Mr. Afroz A. Siddiqui, for the Petitioner.
Mr. V. B. Thadani, AGP respondent Nos 1 to 4.

**CORAM : A. S. OKA &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 3rd MARCH 2016.

P.C. :

1. On 4th August, 2015, notice for final disposal was issued by this Court.
2. The Petitioner claims to be the owner of the land more particularly described in paragraph No.3 of the petition. His contention is that when he attempted to lodge a document in relation to the said property for registration, the first and second respondents, who are the Joint Sub Registrars of Assurances declined to accept the document for registration. The said document tendered by the petitioner was a Special

Power of Attorney, a copy of which is annexed as Exhibit "B" to the petition.

3. The Petitioner is relying upon the information furnished to him under the Right to Information Act, 2005. The information furnished is that in respect of property subject matter of this petition, the Sub Divisional Officer, Malegaon, telephonically informed the first and second respondents that no document in relation to the said property should be registered.

4. Shri. Ajay Subhash More, the Sub Divisional Officer, Malegaon, District: Nashik, has filed an affidavit-in-reply dated 8th January 2016. He has stated that at the relevant time, one Shri.Sandeep Patil was the Sub Divisional Officer of Malegaon Sub Division. Shri. More has stated that he personally contacted Shri.Sandeep Patil on telephone and he is filing the affidavit on the basis of the telephonic information provided by the then Sub Divisional Officer Shri, Sandeep Patil. In paragraph No.2 of the said affidavit, Shri.More has stated thus :-

"2. I say that, on inquiry made in respect of the present writ petition with the Sub Divisional Officer, Shri.Sandeep Patil, the then Sub Divisional Officer has telephonically informed my office Steno Shri.Nitin Bagul that he never directed Joint Sub Registrar (Class-2), Malegaon, not to register sale deed in respect of landed property bearing Gat No.83/19 village

Daregaon, Tal.Malegaon, District. Nashik.”

5. In paragraph No.4, he has specifically stated that as far as the matter of registration of documents is concerned, his office has no say as the first and second respondents are the independent authorities. Thus, said affidavit makes it clear that the Sub Divisional Officer had never instructed the first and second respondents not to register any document in relation to the property subject matter of this petition.

6. Even assuming that such telephonic instructions were given, it is obvious that the third respondent Sub Divisional Officer, appointed under the provisions of Maharashtra land Revenue Code, 1966 could not have issued any directions to the authorities under the Indian Registration Act, 1908. In fact that is the stand taken by Shri. More in paragraph No.4 of his affidavit.

7. Therefore, there is no impediment in the way of the Petitioner lodging any document in relation to the property subject matter of this petition in the office of first and second respondents.

8. In fact, in the affidavit-in-reply filed by first and second respondents, there is a specific assurance given that if any document pertaining to the property subject matter of this petition is produced for registration, it will be processed as per law and the same will not be

refused on the ground that oral instructions have been received from the third respondent.

9. The petitioner has prayed for initiating an enquiry against the concerned officer. Considering the facts on record, we are of view that no such direction need be issued. As regards the prayer for damages, the Petitioner will have to establish the loss caused to him due to alleged failure on the part of the first and second respondents to accept the Power of Attorney for registration. The petitioner will have to adopt appropriate remedy in accordance with law for claiming damages.

10. Therefore, the petition must succeed. We pass the following order.

Order

1. We direct that first and second respondents shall not decline to accept any document tendered for registration in relation to the property subject matter of this petition. We however, make it clear that documents tendered shall be registered in accordance with law;
2. We accept the statement made in the affidavit of the first and second respondents as also in the affidavit of the third respondent;
3. As far as prayer clause (d) of the petition is concerned, a liberty is granted to the petitioner to adopt appropriate

proceedings in accordance with law;

4. As far as prayer clause (e) is concerned, the same stands rejected;
5. The petition is disposed of in above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[A. S. OKA, J.]