

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11765 OF 2015**

Amar Pandharnath Bhandari

Petitioner

Vs

1. M/s Samta Sahkan Bank Ltd
and 3 Ors

.. Respondents

Mr. Omprakash R. Tiwari, Advocate for Petitioner.

Mr. Suhail Khan, Advocate for Respondent no.1.

CORAM : R.G.KETKAR,J.

DATE : 02/04/2016

PC:

1. Heard Mr. Omprakash Tiwari, learned counsel for the petitioner and Mr. Suhail Khan, learned counsel for respondent no.1.

2. Mr. Tiwari submitted that the petitioner was made to believe that house no.206 admeasuring 65'x100' and house no. 390 admeasuring 60'x40' are one and same property. In view of this representation by respondent no.1, the petitioner agreed to pay Rs. 8,00,000/- (Rs.7,50,000/- by cheque and Rs.50,000/- by cash) to respondent no.1 towards full and final settlement. In pursuance thereof, respondent no.1 issued letter dated 23.2.2013 withdrawing their charge over the suit property and executed Memorandum of Understanding dated 29.2.2013. He submitted that house no.206 and house no. 390 are two distinct properties. In short, respondent no.1 played fraud and misrepresented to the petitioner that house no.206 and 390 are

same properties and in view thereof, the petitioner paid Rs. 8 Lacs. The petitioner has, therefore, instituted present petition for directing respondent no.1 to refund Rs. 8 Lacs.

3. Mr. Khan has raised objection as regards maintainability of writ petition. Having regard to the fact that the petitioner has alleged that the respondent no.1 played fraud and misrepresentation to petitioner, this writ petition under Article 227 is not appropriate remedy. Reserving liberty to the petitioner to adopt appropriate proceedings including suit, petition is disposed of. Order accordingly.

(R.G.KETKAR, J.)