

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6547 OF 2015

Sushma Kunjbiharilal Dubey & Ano. Vs. Jugalkishor Gowardhandasji Mundhada

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 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 Judge's Order
 and Registrar's orders

Court's or

Shri S. S. Alaspurkar Adv for petitioner.
 Shri Alok Daga Adv for respondent.

CORAM: A. S. CHANDURKAR J.

DATED: 22nd JUNE, 2016.

Heard. The challenge in the present writ petition is to the order passed by the trial Court below Exs. 64 and 66 by which the objection raised by the petitioner to the exhibition of document at Ex. 18 has been directed to be considered while deciding the suit.

The respondent is the original plaintiff who has filed the suit for specific performance. During his deposition the agreement dated 17.10.2007 came to be exhibited at Ex. 49. The petitioners who were defendants filed an application below Ex. 64 for recording their objection to aforesaid exhibition. On said application the trial Court passed an order that the objection was recorded and kept open.

The petitioner then filed another application at Ex. 66 praying that the objection as raised to the unregistered agreement be first decided. The trial court passed an order that as the objection was kept open, the same would be decided on merits while deciding the suit itself.

Shri S. S. Alaspurkar, learned counsel for the petitioner submitted that the document in question was exhibited in the absence of the counsel for the petitioners and hence the objection vide Exhibit-64 was immediately raised. The Court ought to have decided the objection immediately instead of postponing the adjudication. He submitted that on the earlier objection raised by the petitioners, the said document had been impounded and the objection raised as per Ex. 64 ought to have been decided.

Shri Alok Daga, the learned counsel for the respondent supported the impugned order and submitted that trial Court rightly deferred the adjudication of the objection. According to him this position is clear in view of the judgment of the Full Bench of this Court in *Hemendra Rasiklal Ghia Vs. Subodh Mody 2008(6) Maharashtra Law Journal 886*.

I have considered the respective submissions and having gone through the impugned order I do not find any case for interfering with the same for being made out. The trial Court has kept the objection to the exhibition of the document open in the light of law laid

down by the Full Bench in *Hemendra Rasiklal Ghia* (supra). By observing that the document at Ex. 49 has been marked as exhibit subject to decision of the objection, there is no case made out to interfere. The writ petition is disposed of. No costs.

JUDGE

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