

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9226 OF 2017

Maroti s/o Digambar Kakde
Age - 65 years, Occ - Agriculture
R/o Mali Gallil, Parbhani,
Taluka and District - Parbhani

PETITIONER

VERSUS

Prabhakar s/o Sitaram Kulkarni
Age - Major, Occ - Service
R/o Shivaji Nagar,
Opp to Navandar Hospital, Parbhani
Taluka and District - Parbhani

RESPONDENT

.....
Mr. Pravin N. Kalani, Advocate for the petitioner
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 25th JULY, 2017

ORAL JUDGMENT :

1. Heard learned advocate for the petitioner quite extensively.
2. The petitioner-plaintiff, purportedly aggrieved by order dated 11th November, 2016 on Exhibit-61 in Regular Civil Suit No. 236 of 2011, whereunder his application seeking to frame issue as to whether the defendant proves that he is *bonafide* purchaser or not, has been rejected, is before this court. While earlier on an attempt under Exhibit-50 for similar purpose had been made, the court had deferred the same till cross-

examination of the plaintiff. The plaintiff during the same had referred to whether purchase being *bonafide* and as such, a request has been made under Exhibit-61 for framing issue as to whether the defendant proves that he is *bonafide* purchaser.

3. The application had been opposed by the defendant referring to that additional issues had already been framed after amendment of the plaint, cross-examination of the plaintiff had been completed long back and neither the defendant has pleaded in the written statement nor the plaintiff has been suggested anything in respect of *bonafide* purchase and that the issue does not arise from pleadings.

4. Trial court has observed that defendant has not admitted ownership of plaintiff. He has purchased the property from the power of attorney holder Abbasaheb Kishanrao Deshmukh. Defendant has never suggested to the plaintiff during cross-examination that he is *bonafide* purchaser.

5. Perusal of the impugned order shows that the reasons given by trial court can hardly be impeached being not proper. Even otherwise, it does not appear to be a case of the petitioner that any such issue would ever arise from the pleadings.

6. In the circumstances, writ petition is devoid of any substance and stands dismissed as such.

[SUNIL P. DESHMUKH, J.]

drp/wp9226-17