

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 WRIT PETITION NO. 1869 OF 2013

PURUSHOTTAM CHANDANMAL AGRAWAL
VERSUS
RAOSAHEB JAYAJI BODKHE AND OTHERS

Shri. R.R. Imale, Advocate, for petitioner.

Smt. M.D. Thube-Mhase, Advocate, for respondent No.1.

Coram: T.V. NALAWADE, J.

Date: 7 July 2017.

ORDER:

1) The petition is filed to challenge the order made by the learned Civil Judge, Senior Division, Aurangabad in Special Civil Suit No.246/2011 on Exhibit 17. Both the sides are heard.

2) The suit is filed by the present petitioner for relief of specific performance of contract of sale of immovable property. The suit is on the basis of agreement dated 16-8-2010. After filing of the written statement by

the defendant, the owner, the plaintiff filed application at Exhibit 17 for seeking amendment in the pleadings. This Court has carefully gone through the amendment which is sought. It is the case of the defendant that the agreement with present respondent Nos.2 and 3 was executed on 29-3-2010 and in furtherance of that agreement the property was sold to respondent Nos.2 and 3 on 3-2-2011. By this amendment plaintiff wants to make some contentions with regard to the sale deed executed in favour of respondent Nos.2 and 3 and it can be said that he would like to implead respondent Nos.2 and 3 as defendants in the suit.

3) Careful perusal of the amendment application shows that there is no pleading in respect of so called agreement dated 29-3-2010 executed by the defendant in favour of present respondent Nos.2 and 3. Thus apparently the agreement dated 29-3-2010 was made in favour of present respondent Nos.2 and 3 first in time and then the agreement dated 16-8-2010 was made in favour of the present petitioner, plaintiff. On the basis of such pleadings, at the most, it can be said that it is a case of

cheating, deceit by the defendant. In view of these circumstances and as there is no specific case in the proposed amendment in respect of the agreement dated 29-3-2010 this Court holds that the trial Court has not committed any error in refusing permission to amend the pleadings. This Court sees no reason to interfere in the order made by the trial Court. The petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

rs1