

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

907 WRIT PETITION NO. 2619 OF 2017

MADHAVRAO MANIKRAO SONAVANE AND OTHERS
VERSUS
RAZIYA BEGUM ABDUL AZIM THROUGH GPA ABDUL
SALIM ABDULAZIM

Shri. N.B. Khandare, Advocate, for petitioners.

Shri. R.N. Dhorde, Senior Advocate, for respondent.

Coram: T.V. NALAWADE, J.

Date : 5 July 2017.

ORDER:

1) The petition is filed to challenge the order made by the learned Civil Judge Junior Division Aurangabad on Exhibit 49 in Regular Civil Suit No.608/2010. Both the sides are heard.

2) The suit is filed for specific performance of contract of sale of immovable property by the present respondent against the petitioners. It is contended that the agreement took place in the year 1996 and entire

consideration was paid and one document was also executed in furtherance of the said agreement. One document titled as "sale deed" is produced on the record and the plaintiff will be using this document to show that there was such agreement.

3) As it was a document of agreement of sale, application was moved by the petitioners for sending the document to the Collector or for making order of impounding of the document. Learned Judge of the trial Court has held that said document is to be treated as agreement of sale and it cannot be treated as deed of sale and in view of the provisions of the Bombay Stamp Act which were applicable, there is no need to send the document to the Collector or to impound the document by the Court itself.

4) Learned counsel for the petitioners submitted that due to observations of the trial court that the said document is an agreement of sale, the contentions of the defendants about the document will not be considered on merits while deciding the suit. This contention has no

base. The contention is decided only for the purpose of stamp duty and for deciding the request made by the defendants to impound the document. This Court has carefully gone through the provisions of the Bombay Stamps Act and particularly Article 25 governing the said situation. This Court is avoiding to discuss the contents of the document to see that the trial court is not influenced. All the points will be open before the trial court during trial on merits. With these observations the writ petition is disposed of as dismissed.

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

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