

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 7057 OF 2016

Bajirao s/o. Shahu Gaikwad,
Age 60 years, Occu. Pensioner,
R/o. Shirur, Tq. Shirur, Dist. Pune.

....Applicant.

Versus

Mohan Namdeo Yedhe,
Age 65 years, Occu. Agril.,
R/o. Palaspimpri, Tq. Pathardi,
Dist. Ahmednagar.

....Respondent.

Mr. S.D. Kotkar, Advocate for applicant.

Mr. P.R. Nangare, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : March 21, 2017.

ORAL JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) Present proceeding is filed by one retired Sub Registrar, who was appointed under Indian Registration Act in the Office of Registrar, Tahsil Pathardi, District Ahmednagar. Both the sides are heard.

3) One Mohan Yedhe has filed private complaint for offences punishable under sections 218, 420, 465, 468, 471, 34

of the Indian Penal Code against the present applicant and others. It is the contention of the complainant that the agricultural land Gat No. 74 from Kalaspimpri, Tahsil Pathardi was owned by his grand-father and his grand-father died in the year 1958 and after the death of his grand-father, the land came to Namdev, Devrao, Sahebrao and Bapurao. Namdev was the father of complainant. It is contended that Devrao died in the year 1969.

4) It is the case of complainant that Ramkisan son of Sahebrao knew that even after death of Devrao, the land was standing in the name of Devrao and with the help of other accused, he presented another person as Devrao and executed the sale deed in respect of the land which was standing in the name of Devrao on 3.4.2002 and the sale deed was executed in favour of accused No. 1 - Sou. Ashabai Sitaram Choudhary. Allegations are made that the other accused knew that Devrao was not there, but they signed on the documents to identify Devrao as witnesses on execution. Allegations are made that present applicant, who is shown as accused No. 7 and who was working as Sub Registrar ought to have been taken proper care and probably, he joined hands with the main accused and so, he also has committed the offences of aforesaid nature.

5) The learned counsel for applicant submitted that the transaction was registered in April 2002 and at that time, only on the basis of identification done by the persons of the executing party, the Sub Registrar was expected to accept the identification. The learned counsel for applicant produced on the record the circular issued by the Inspector General of Registration, Department of Revenue, Government of NCT of Delhi dated 12.11.2014 showing that first time, due to this circular steps were taken and precautions were expected to be taken to see that the party executing the document is the same and relevant record was necessary for registration. The documents like Adhar Card, Enrollment Slip are made compulsory before accepting the documents for registration.

6) The learned counsel for respondent, original complainant submitted that in the year 2002 also, it was necessary for Sub Registrar to take proper steps to see that the executing party was the same. He submitted that atleast the voters list ought to have been perused by the Sub Registrar to ascertain that Devrao was alive. This submission is not at all acceptable as there is no such provision in Indian Registration Act. Unfortunately, in the past there were no such provisions and

there were no such precautionary measures and due to that, many false documents were executed. As such procedure was not there at that time, this Court holds that it is not desirable to allow the proceeding filed against the present applicant to go on.

7) In the result, the application is allowed. The proceeding to the extent of the present applicant is hereby quashed and set aside.

Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/