

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.1446 OF 2018

M/s. ISH HOMES PRIVATE LIMITED		Petitioner
Vs.		
Ratandeep Shankar Narkar & Ors.		Respondents
.....		
Mr. Khan Javed Akhtar, for Petitioner.		
.....		

CORAM : R.G. KETKAR, J.

DATE : 7TH MARCH, 2018.

P.C.

Not on board. At the request of Mr. Khan Javed Akhtar, taken up in the production board.

2. Heard Mr. Khan, learned Counsel for the petitioner/plaintiff.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 20th January, 2017 passed by the learned trial Judge, Small Causes Court, Mumbai in R.A.E. Suit No.643/1132 of 2008. Mr. Khan restricted his challenge

only in respect of document at Sr. No.6 which is alleged acknowledgment slip dated 25th January, 2013. The same was admitted and marked as Exhibit 50.

4. Mr. Khan submitted that the plaintiff has instituted the suit against the respondent/defendant for recovery of possession of Room No.4, House No.411-Back, Ground Floor, Kadri Mansion, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 025 (for short 'suit premises'). Defendant No.2 filed written statement on or before 16th July, 2008. He did not rely upon and possibly could not have relied upon the purported acknowledgment slip dated 25th January, 2013. However, in examination-in-chief and in particular paragraph 9, he has produced the slip and alleged that one Prashant, Constituted Attorney of the plaintiff has signed the said slip. He further submitted that alleged acknowledgment slip does not bear requisite revenue stamp. He, therefore, submitted that the learned trial Judge was not justified in admitting the said document in evidence and exhibiting the same. He submitted that if this Court is not inclined to interfere with this order, it may be clarified that all objections of the plaintiff as regards the said document are kept open.

5. I have considered the submission of learned Counsel for

the petitioner. I have also perused acknowledgment slip dated 25th January, 2013. By the impugned order, the learned trial Judge has marked the document as Exhibit 50. It is settled principle of law that by marking the document as exhibit that by itself does not amount to proving the contents thereof. All objections of the plaintiff in that behalf are expressly kept open. Hence, Petition fails and as such dismissed with no order as to costs.

6. It is made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in memorandum of Appeal as contemplated by Section 105(1) of the Code of Civil Procedure, 1908.

[R.G. KETKAR, J.]