

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2125 OF 2018

Girnar Realtors Pvt. Ltd., Bandra, Mumbai.	 Petitioner
V/s.	
Manik Ram Reddy & Ors.	 Respondents

Mr. S.K. Keswani for the Petitioner.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 2ND MAY, 2018.

P.C. :

1. Heard Mr. Keswani, learned counsel for the Petitioner.

2. By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 29th January 2018 passed by the City Civil Court, Dindoshi, Mumbai, thereby exhibiting the 'Development Agreement' dated 27th October 2005 as "Exhibit-35", despite the objection raised by the Petitioner.

3. Learned counsel for the Petitioner submits that, it was a photocopy of the 'Development Agreement'. The application filed by Defendant No.2 for leading secondary evidence is allowed by the Trial Court vide its

order dated 9th January 2018. In view of the Judgment of this Court in Civil Writ Petition No.11151 of 2017 dated 3rd November 2017 holding that, such application for leading secondary evidence is not necessary at all, it is urged that, in evidence, the Plaintiff has not at all properly proved this document.

4. However, in my considered opinion, whatever the objections raised by learned counsel for the Petitioner about the document, being not having the proper Notary seal, there are suspicious circumstances or features in the said documents, all this will be considered by the Trial Court while deciding its evidential value at the time of Judgment. For exhibiting the document, what is required is the witness stating about the proof of signature and the contents thereof. This witness has admitted that his signature on the said document is at Sr.No.2. In such situation, he being a party to the document itself, through his evidence, the Trial Court has exhibited and admitted the said document in evidence.

5. However, as I said, if there are any other objections to the admissibility of the said document or the genuineness of the said document, needless to state that, the Trial Court will consider all these questions at its appropriate time, may be at the time of finally deciding the Suit. But, at this stage, exhibiting of the document cannot be

questioned, when the witness himself is party to the said document and has stated that it bears his signature.

6. Hence, the Writ Petition holds no merits; therefore, stands dismissed.

7. At this stage, learned counsel for the Petitioner seeks stay to the operation of this order. However, this Court does not find any reason to do so, as all the questions are expressly kept open. Hence, the request for stay is rejected.

[DR. SHALINI PHANSALKAR-JOSHI, J.]