

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7708 OF 2017**

The New Anubhav Park Co-op. Hsg.Soc.Ltd. ...Petitioners

Vs.

Dhirajlal Manilal Sheth ...Respondent

.....

Ms. Vrushali Raje i/b. P.N. Joshi for the petitioners.

Mr. Bipin J. Joshi a/w. Mr. Prayag Joshi for the respondent.

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CORAM : M.S.KARNIK, J.

DATE : APRIL 23, 2018.

P.C.:-

Learned Counsel for the petitioners invited my attention to the impugned order dated 20th January, 2017 passed by the Maharashtra State Co-operative Appellate Court in Revision Application No. 44 of 2016. It is pointed out by her that the petitioners by an application (Exhibit 18) under Order 18 Rule 3 of the Code of Civil Procedure prayed that the purported agreement dated 14/10/1974 which is marked as Exh.D/1 be rejected from evidence as being inadmissible in evidence. The document was already exhibited. The objection of the petitioners is that the said agreement bears the special adhesive stamp of Rs.5/- and the same is unregistered document. It is

further submitted that the said document is required to be stamped as if the same is conveyance and is required to be duly registered. Learned Counsel for the petitioners contended that though the said document is not duly stamped and also not registered, the Courts below erred in dismissing the application filed by the petitioners for rejecting the document (Exh.D/1) from the evidence as being inadmissible.

2. I have gone through the orders passed by both the Courts below. The Appellate Court has observed that admittedly the document is an agreement between the parties which is unregistered one. It is further recorded that since the document is not disputed by the opponent, the same could be considered at the time of final hearing of the dispute either for collateral purpose or any other purpose after adducing evidence by both sides.

3. Keeping the contention of the petitioners open as regards their objection to the evidentiary value of the document in question on the ground of the same being not registered and

not properly stamped, I am of the opinion that no interference with the impugned orders is called for in the exercise of my writ jurisdiction under Article 227 of the Constitution of India as the document is already exhibited. The objection raised by the petitioners about the evidentiary value of the document being not registered and not duly stamped can be considered by the trial Court at the stage of final hearing. It is the contention of learned Counsel for the respondents that at the relevant time there was no necessity to get the document registered. All these objections can be appropriately dealt with by the trial Court at the stage of final hearing as it reflected from the order passed by the Courts below.

4. In this view of the matter, the petition is rejected subject to what is observed above.

(M.S.KARNIK, J.)