

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.1784 OF 2017
IN
WRIT PETITION NO.6942 OF 2016

Rajani Arvind Parchure] Applicant

Vs.

Shri Narhari Mahadev Gole @ Bedekar] Respondent

.....

Mr. Sandesh Shukla a/w Mr. Amit Singh i/b Santosh Sawant, for Applicant.

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CORAM : R.G. KETKAR, J.

DATE : 22ND MARCH, 2018.

P.C.

Heard Mr. Shukla, learned Counsel for the applicant.

2. This is an application for bringing heirs and legal representatives of the petitioner on record. Office remark shows that the Civil Application is filed in time. For the reasons stated in the application, Civil Application is allowed in terms of prayer clause (a) with no order as to costs.

3. Leave to convert Writ Petition into Civil Revision Application is granted. Amendment to be carried out forthwith.

4. At the request of Mr. Shukla, Writ Petition is taken up for admission. By this application under Section 115 of the Code of Civil

Procedure, 1908, the petitioner hereinafter referred to 'plaintiff' has challenged the judgment and decree dated 28th October, 2013 passed by the learned Ad-hoc District Judge, Sangli in Regular Civil Appeal No.197 of 2009. By that order, the learned District Judge allowed the appeal preferred by the appellant/defendant and dismissed the suit. The learned District Judge held that the defendant is in possession of the suit premises on the basis of oral agreement of sale of the year 2002. He submitted that Section 17 (1-A) of the Registration Act, 1908 lays down that the documents containing contracts to transfer for consideration, any immovable property for the purpose of Section 53-A of the Transfer of Property Act, 1882, shall be registered, if they have been executed on or after 24th September, 2001 and if such documents are not registered on or after such commencement then, they shall have no effect for the purpose of Section 53-A of the Act. He submitted that the learned District Judge, therefore, was not justified in holding that the defendant is in possession of the suit premises on the basis of oral agreement of sale of 2002.

5. In view of this submission, issue notice to the respondent returnable on 19th April, 2018. Parties are put to the notice that subject to the time constraint and convenience of the Court, Petition will be disposed of finally at the stage of admission. Notice shall further indicate that despite service if the respondents fail to appear, the Court will proceed to decide the petition on its own merits.

6. In the meantime, call for record and proceedings.

[R.G. KETKAR, J.]