

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

SECOND APPEAL NO. 501/2017

(SURESH GANPATRAO CHINCHMALATPURE VERSUS RAMSANJIWAN RAMBHAROSE SAHU)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri Abhay Bhide, counsel for the appellant.
 Shri N.S. Deshpande, Advocate h/f Shri P.M. Pande, counsel for the respondent.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 21, 2018.

Heard. ADMIT on the following substantial questions
 of law:-

- I) Whether the appreciation of evidence by the appellate Court while discarding the defence as raised by the defendant no.1 that the document at Exhibit 92 was executed as a security for a loan transaction is perverse ?
- II) Assuming that the document at Exhibit 92 is held to be the agreement as pleaded by the plaintiff, whether the appellate Court was legally justified in enhancing the amount of consideration by Rupees One Lakh ?

Shri N.S. Deshpande, learned counsel waives notice of hearing on behalf of the respondent.

C.A.S. NO. 964/2017.

By this application, it is prayed that the decree for specific performance as passed by the appellate Court be stayed during the pendency of the appeal.

By that decree, the plaintiff has been directed to pay a sum of Rs.1,70,000/- to the defendant no.1 for having the sale-deed executed.

The second appeal has been admitted after framing substantial questions of law. The decree impugned shall remain stayed subject to the following conditions:-

(i) It would not be necessary for the plaintiff to deposit the balance consideration of Rs.1,70,000/- as directed. However, if the decree of the appellate Court is ultimately confirmed, the said amount of balance consideration alongwith interest at such rate the Court may direct shall be payable by the plaintiff.

(ii) Since according to the defendant no.1 he has received the amount of Rs.70,000/- from the plaintiff, the amount of Rs.70,000/- shall be deposited in this Court within a period of six weeks from today.

(iii) The defendant no.1 shall not alienate or create third party rights in the suit property.

Civil application is disposed of.

JUDGE

APTE

Rohit
Dattatraya
Apte

Digitally signed by
Rohit Dattatraya Apte
Date: 2018.08.23
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