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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2482 OF 2016

Rajesh Laxman Pangavhane	..Petitioner.
V/s.	
Anant Sarjerao Shinde & Ors.	..Respondents.

Mr.Amey Deshpande for the petitioner.

Mr.Mohit Shamdasane I/b. Rahul D.Motkari for respondent No.1.

CORAM : M.S.SONAK, J.

DATE : MARCH 19, 2019

ORAL JUDGMENT

Heard Amey Deshpande, learned counsel for the petitioner and Mr.Mohit Shamdasane, learned counsel for respondent No.1.

2. Challenge in this petition is to the order dated September 19, 2015 by which learned trial Judge has dismissed the petitioner's application for impounding the agreement dated July 4, 2001 on the ground that appropriate stamp duty has not been paid thereon.

3. Mr.Deshpande, learned counsel for the petitioner submits that the agreement amounts to conveyance and in terms of Article 25 Schedule-I of the Bombay Stamps Act, 1958, the stamp duty should

have been paid thereon on the basis that it is a conveyance. Since this has not been done, it is required to be impounded.

4. Mr.Shamdasani, learned counsel for respondent No.1 points out that the possession was to be delivered at the time of execution of the sale deed. He, therefore, submits that the agreement does not intent conveyance. Mr.Shamdasani relies on the decision of this Court in the case of *Balawangir Ganmpatgir Giri (deceased through L.R.s) v/s. Manasai Construction & Developers & Ors.*¹ in support of his contention.

5. On perusing the impugned order, I am satisfied that there is no case made out for interference. It is because, the Division Bench of this Court in *Balawangir Ganmpatgir Giri (deceased through L.R.s)* (supra) has held that :-

“ For the purposes of this article, where in the case of agreement to sell an immovable property, the possession of any immovable property, is transferred or agreed to be transferred to the purchaser before the execution, or at the time of execution, or after the execution of such agreement then such agreement to sell shall be deemed to be a conveyance and stamp duty thereon shall be leviable accordingly. “

6. Thus, construed, it cannot be said that there is any jurisdictional error in the view taken by the learned trial Judge.

¹ 2006(6) All MR 109

7. Thus, the petition is liable to be dismissed and is hereby dismissed.

7. In the facts of the present case, however, there shall be no order as to costs.

(M.S.SONAK, J.)