

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.4129 OF 2019

Mr. Abhijit Ramnath Gunjal ...Petitioner.
vs.
The State of Maharashtra ...Respondent.

Mr. A.A. Joshi for the petitioner.
Mr. Deepak Thakre, PP with Mr. S.R.Shinde, APP for State.

**CORAM : B.P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.
DATE : 13th November, 2019**

PC :

1. Heard for some time. Perused the mortgage deed to which our attention is invited. We find prima facie that it contains certain terms and conditions which militate with agreement to sell entered into by the petitioner with third party.

2. Reliance upon Judgment of learned Single Judge of Andhara Pradesh High Court in the case of Ahmed Moosa vs. Inspector of Police, Jagtial reported in (1999) 5 ALD 753 in this situation is warranted. The facts in that Judgment show that only allegation was mortgaged property was to be sold and out of the sale consideration, the loan of complainant was to be discharged. Sale was thus permitted there.

3. Reading of Division Bench Judgment of this court in the case of

Dattaprasad Ramvilas Lakhotia and anr. vs. State of Maharashtra and anr. reported in 2013(3) B.R.C. (Cri.) 756 reveal that condition like condition Nos. 15,16 and 17 in mortgage deed before us did not fall for consideration before said Division Bench.

4. We therefore refuse to intervene in extra ordinary jurisdiction and allow him to raise all contentions before the trial court. With this observation and liberty we dispose of the petition.

(SMT. SADHANA S. JADHAV, J.) (B.P. DHARMADHIKARI, J.)