IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11287 OF 2019

Windals Precision Pvt. Ltd.
Through Director Mr.U. Vinzanakar ... **Petitioner**
Versus
Shri.Ashok Nensukh Pagariya & Ors. ... **Respondents**

.....

Mr.Nachiket V. Khaladkar, Advocate for the Petitioner.

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CORAM : A.M.BADAR J.

DATED : 5th NOVEMBER 2019.

P.C. :

1 This is a petition by defendant No.12 challenging the Order passed below application at Exhibit 193 by which he prayed for impounding of the instrument i.e. agreement of sell and power of attorney dated 2nd March 2007.

2 Heard the learned Counsel appearing for the petitioner/defendant No.12. He submitted that in the agreement entire scheduled is fixed and stages are mentioned. If ultimately, the conveyance is not executed then the state will be deprived of the Court fee. It is further argued that the agreement is cleverly drafted by avoiding the use of word 'possession', but it is a deemed conveyance warranting payment of stamp duty and, therefore, the

learned trial Court erred in rejecting the application for impounding of that document. My attention is drawn to the impugned Order as well as the Explanation (1) to Article 25 of the Maharashtra Stamp Act.

3 I have considered the submission so advanced and also perused the concerned agreement.

4 The sale agreement is not considered as deemed conveyance. There is no reference to the possession. It is not agreed by that agreement that possession will be transferred either before or at the time of conveyance or at any time subsequent to the agreement. Therefore, the said agreement cannot considered as a deed conveyance. Be that as it may, even that agreement was accepted and admitted in evidence and the said is marked at Exhibit 185. Therefore, even otherwise as that agreement is accepted in evidence, the said cannot be impounded.

5 No infirmity can be found in the impugned Order passed by the learned trial Court. The petition is, therefore, dismissed.

(A.M.BADAR, J.)