

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14506 OF 2018

M/s.HB-KJ & Advance	.. Petitioner
Vs.	
Mr.Konddeo Savleram Panse	.. Respondent

Mr.Wasim A.Quraishi a/w Mr.U.Z.Kazi i/b Mr.Pramod Kotkar for the Petitioner.
Mr.Chaitanya Nikte, for the Respondent.

CORAM : M.S.KARNIK, J.

DATE : 26th SEPTEMBER 2019

P.C. :

. Heard learned Counsel for the petitioner.

2. In this Petition order passed by the trial Court below Exhibit 59 is under challenge. The application Exhibit 59 is filed by the defendant. The petitioner is the defendant. Respondent – plaintiff filed the Suit for directing the defendant to execute and register the final conveyance in respect of the flat No. 101 in favour of the plaintiff. Further relief claimed in the plaint is that

the defendant be directed to hand over vacant, peaceful, de-facto and de-jure possession of the flat No. 101 to the plaintiff.

3. By filing Exhibit 59, the defendant prayed for impounding of the agreement dated 24/03/2009 as it is insufficiently stamped. According to the defendant, the said document is an unregistered document.

4. Admittedly, the possession of the suit flat is not handed over to the defendant under the agreement. The trial Court was of the opinion that it is those documents which fall within the ambit of Section 17 of the Indian Registration Act which are to be registered compulsorily which does not include agreement to sell. In the present case, the agreement to sell is reduced on a stamp paper of Rs.100/-. In these circumstances, when the possession of the suit property has not been handed over to the petitioner or there is no mention in the agreement to sell that the possession is with the plaintiff, the application

made by the defendant for impounding is not tenable. I do not see any reason to interfere with the order passed by the trial Court. Petition is rejected.

(M.S.KARNIK, J.)

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by Urmila P.
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