

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 69 OF 2016
IN
COMMERCIAL ARBITRATION PETITION NO. 29 OF 2016**

Ashadevi Rajendrakumar Gupta ...Applicant/Orig.Resp.No.1

In the matter between

Atul Projects India Pvt.Ltd. ...Petitioner

vs

Ashadevi Rajendrakumar Gupta & Anr. ...Respondents

Mr.Ashish Suryavanshi with Ankur Kalal and Aditi Bhat I/b. Markand Gandhi & Co. for Petitioner.

Mr.Jaikumar N. Shiradhonkar for Respondent No.1/Applicant in NMCD 69/2016.

CORAM : S.C.GUPTE, J.

DATE : 31 JANUARY 2019

P.C. :

The notice of motion seeks a direction against Respondent No.2, who was an escrow agent, for depositing in this court original title deeds and other original title papers in respect of the property of Respondent No.1 kept with him in escrow in a sealed envelope in the office of the Prothonotary & Senior Master.

2 One of the grievances raised by the Applicant (original Respondent No.1) is that original agreement dated 21 May 2012 was also kept with Respondent No.2 in escrow and that he has taken a stand that he does not hold this document.

3 Respondent No.2 has filed an affidavit stating that the

purported original agreement dated 21 May 2012 executed between the Petitioner and Respondent No.1 was not kept with him in escrow and he does not hold the same. Respondent No.2 has submitted that the only documents kept with him in escrow were the documents referred to in para 6 of the affidavit dated 15 November 2017. Respondent No.2, accordingly, will have to produce these documents for submitting them to this court. The Petitioner also has no objection.

4 Accordingly, the notice of motion is disposed of by consent by directing Respondent No.2 to deposit the title deeds and other papers kept with him in escrow, which are referred to in para 6 of his affidavit as above. The documents shall be deposited in the office of the Prothonotary & Senior Master in a sealed envelope.

5 Since Respondent No.2 has denied having received the original agreement dated 21 May 2012 executed between the Petitioner and Respondent No.1, there is no question of passing any direction in respect of this document. It will be, however, open to Respondent No.1 to take such steps as may be permissible in law against Respondent No.2 for loss of this document. All contentions of the parties in that behalf are kept open.

6 The commercial arbitration petition to come up for hearing in due course.

(S.C. GUPTE, J.)