

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5578/2018
(MADHAV JANGLU SHENDE **VERSUS** KESHAV NARAYAN SHENDE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.D. Badode, counsel for petitioner.
Shri A.A. Dhawas, counsel for respondent.

CORAM : A.S. CHANDURKAR, J.

DATE : JUNE 17, 2019.

The petitioner is the plaintiff who is aggrieved by the order passed by the trial Court below Exhibit 49 rejecting the application as moved under provisions of Order I Rule 10 of the Code of Civil Procedure, 1908.

The plaintiff seeks specific performance of an agreement executed in his favour by the defendant. In the written statement as filed, a specific plea has been raised by the defendant that even prior to the filing of the suit, the property in question was sold by registered sale-deed dated 20.06.2011 to one Vinod Shende. The present suit has been filed on 12.07.2011 but without raising any challenge to that sale-deed. The plaintiff moved an application on 01.04.2017 seeking to implead the purchaser of that property as defendant. The trial Court by the impugned order rejected the said application.

After hearing the learned counsel for the parties, it is seen that the defendant in his written statement filed on 08.08.2011 has clearly disclosed that the suit property was sold to one Vinod Shende on 20.06.2011. Thus, despite knowledge of this

fact, the application for addition of the purchaser of the said property has been moved only on 01.04.2017 without any explanation for such delay. The trial Court has observed that when the said application came up for consideration, the suit was fixed for final arguments. In that view of the matter, I am not inclined to entertain the writ petition.

With liberty to the petitioner to raise challenge to the order passed below Exhibit 49 in appeal if the occasion arises, the writ petition stands dismissed. No costs.

JUDGE

APTE