

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO.512 OF 2020

RAMESH LAXMAN MOHAN
VERSUS
SANDIP SHAMLING SHINDE

...
Advocate for Petitioner : Mr. Hrishikesh V. Tungar
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CORAM: ROHIT BABAN DEO, J.

Date: JANUARY 16th, 2020
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PER COURT :-

1 The petitioner is the original defendant who suffered a decree of specific performance.

2 The suit for specific performance was filed on the basis of registered agreement to sale.

3 The petitioner – defendant filed written statement contending that the registered agreement of sale dated 31.10.2012 is vitiated due to misrepresentation/deceit. The defendant further contended in para No.18 that while the actual consideration was Rs.5,50,000/- in the registered agreement of sale, the consideration was shown as Rs.2,50,000/-.

4 In appeal, the defendant preferred an application under order 6 rule 17, C.P.C., seeking to delete the entire paragraph 18 of the written statement and to substitute the same. In appeal, the defendant sought to introduce entirely new story. The defendant sought to contend that as a fact, there were two

agreements executed. The defendant contended that in addition to the registered agreement of sale, the parties executed an unregistered agreement which correctly depicts the agreed terms and conditions. By the order impugned, the appellate Court has rejected the application, seeking amendment.

5 The appellate court has held that the defendant cannot be permitted to introduce an entirely new version in the written statement, at the appellate stage.

6 I do not see any reason to take a different view.

7 I am satisfied that the defendant sought to introduce an entirely new version which is not permissible. The order impugned does not suffer from any error much less an error warranting interference in the writ jurisdiction.

8 The petition is dismissed.

(ROHIT BABAN DEO, J)