

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No.3606 of 2018
Taherkhan Pathan Vs. The Divisional Joint Registrar & Others

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

Court's or Judge's orders

Mr. Firdos Mirza, Advocate for the petitioner
Mr. S.B. Bissa, AGP for the respondents No.1 to 3
Mr. A.S. Shukla h/f Mr. R.L. Khapre & V.N. Patre, Advocate for
the respondents No.4 and 5.

CORAM : MANISH PITALE, J.

DATED : JANUARY 06, 2020

The petitioner has approached this Court challenging order dated 24/04/2018, passed by the Divisional Joint Registrar under the provisions of the Maharashtra Money Lending (Regulation) Act, 2014. By the said order, the respondent No.1 - Divisional Joint Registrar has allowed the appeal filed by the contesting respondents and set aside order dated 15/09/2017, passed by the respondent No.2 - District Deputy Registrar (Money Lending), who had held that sale deed dated 24/09/2004, executed in favour of the contesting respondents was invalid as it was in pursuance of a money lending transaction.

2. The brief facts leading up to filing of the present writ petition are that the petitioner had raised a grievance under the Act of 2014 to the effect that sale deed dated 24/09/2004, executed in favour of the contesting respondents was a sham transaction as it

was the product of money lending transaction between the parties. The respondents called for a report from the Assistant Registrar and found that the contentions raised on behalf of the petitioners were correct and accordingly, by order dated 15/09/2017, declared that sale deed dated 24/09/2004, was invalid.

3. Aggrieved by the said order, the contesting respondents filed appeal before the respondent No.1, who passed the impugned order allowing the appeal and setting aside the order of the District Deputy Registrar.

4. On 27/6/2018, this Court issued notice for final disposal in the present writ petition and recorded the submission of the petitioner that order of the respondent No.2 was already executed and on that basis granted stay to the effect and operation of the impugned order passed by the respondent No.1.

5. The respondents have raised a preliminary objection in the present writ petition, contending that an alternative remedy was available to the petitioner in the form of revision petition that could be filed under Section 9 of the Act of 2014. Reliance was also placed on the judgment and order dated 28/08/2018, passed by this Court in the **Writ Petition No.5362/2017 (Vishwanath Marotrao Ganjre Vs. Divisional Joint Registrar and others)**.

6. A perusal of the provisions of the Act of 2014 would show that under Section 9 thereof, Registrar General as defined under Section 2(21) could *suo motu* or an application exercise revisional powers to examine the correctness of any order or decision passed by an officer subordinate to him. The said provision also states that if no appeal is available against the order or decision of an officer subordinate to the Registrar General, such revisional power could be exercised under Section 9 of the Act of 2014. These provisions were taken note of in the aforesaid judgment of this Court in the case of **Vishwanath Marotrao Ganjre Vs. Divisional Joint Registrar and others** (supra) and it was held that the remedy of revision provided under Section 9 of the Act, 2014 was indeed an alternative and equally efficacious remedy. In the face of the preliminary objection raised on behalf of the respondents, the learned counsel for the petitioner, upon instructions, sought permission to withdraw the present writ petition with liberty to approach the revisional authority under Section 9 of the Act of 2014, to challenge the impugned order herein.

7. In view of the above, the request made on behalf of the petitioner is accepted and accordingly, the writ petition is disposed of as withdrawn with liberty to the petitioner to approach the revisional authority i.e. Registrar General under Section 9 of the Act of 2014 by filing revision application.

8. At this stage, the learned counsel for the petitioner submitted that the interim order granted by this Court may be continued for a specific period of time and it was asserted that the petitioner was in possession of the concerned property. The assertion made on behalf of the petitioner was vehemently denied on behalf of the contesting respondents and attention of this Court was invited to the application filed on behalf of the contesting respondents for vacation of interim relief, wherein it was claimed that possession of subject property was in fact with the contesting respondents. In this situation, this Court refuses to enter into the controversy raised by the rival parties as regards possession. Accordingly, while granting the aforesaid liberty to the petitioner, it is directed that the contesting parties shall maintain status quo as on today for further period of four weeks.

9. The writ petition is disposed of in above terms.

10. If the petitioner moves an appropriate application or prayer for grant of interim relief along with revision application as contemplated under Section 9 of the Act of 2014, the revisional authority shall decide the same without being influenced by the observations made by this Court.

JUDGE