

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

939 WRIT PETITION NO.11715 OF 2021

**VIMAL VENUNATH PATARE
VERSUS
ALKA BHAUSAHEB KHARDE**

**...
Advocate for Petitioner : Hajare Abhishek M.
Adv. Datta A.Madke For R/sole**

**...
CORAM: MANGESH S PATIL,J.
DATE : 22.10.2021**

P.C.:

Advocate Mr.Madke appears for respondent on caveat and tenders affidavit in reply which is taken on record and marked "X" for the purpose of identification.

2] The petitioner is the original plaintiff aggrieved and dissatisfied by the order passed on the respondent-defendant's application (Exh.56) whereby the trial Judge has directed petitioner to adduce her evidence at the earliest.

3] After hearing learned advocates of both the sides, it transpires that it is a suit for specific performance of an agreement to sell an of immovable property. The respondent-defendant is contending that it is a forged document. She has also lodged an F.I.R. and the matter is being investigated in Crime No.I-273/2019. The original documents have been

seized and sent for forensic examination. In view of such peculiar supervening events, the petitioner is aggrieved because she has been asked to tender evidence even in the absence of the original documents.

4] The learned advocate for the respondent submits that the respondent has no objection if the originals are called by the civil Court to enable the petitioner to lead the evidence. If such is the state of affair, it would be appropriate to direct the petitioner to tender appropriate application for calling the original documents and the trial Court on such request being made would be obliged to pass appropriate order.

5] The Writ Petition is disposed of in following terms.

The petitioner shall now file appropriate application seeking a direction to call all the original documents which she needs for tendering evidence. The respondent shall consent to such a request. The trial Court shall accordingly call for the documents and shall not insist the petitioner to lead evidence unless the documents are received.

[MANGESH S. PATIL,J.]

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