

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7222 OF 2021

Tanaji Ramgonda Patil

.. Petitioner

Versus

Vishwanath Subrao Kashid

and ors

.. Respondents

...

Mr.Nagesh Chavan for the petitioner.

Mr.R.V. Salunkhe for respondent no.1.

Mr. Nikhil Pawar for respondent nos.2 and 3.

CORAM: BHARATI DANGRE, J.

DATED : 7th DECEMBER 2021

P.C:-

1 The order impugned is passed on 13th November 2019 on an application moved by the defendant by invoking sections 31 and 32 of the Bombay Stamp Act by pleading that the alleged agreement to sale is insufficiently stamped. The facts reveal that plaintiff has already filed his evidence affidavit when the application was moved. The learned Judge has rejected the application on the ground that since it is a suit for specific performance, the provisions of the Stamp Act cannot be invoked.

I do not find substance in the said reasoning. However, since the law is now well settled to the effect that unless and until the document is sufficiently and adequately stamped, it

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cannot be read in evidence and the objection to that effect can be raised before executing the said document, since the plaintiff has not yet stepped into the witness box and the document is yet to be exhibited by any party, by keeping the liberty to raise an objection about the admissibility of the said documents in evidence open, the impugned order is set aside to that limited extent.

2 Writ Petition is allowed as aforesaid by reserving the liberty to raise the objection as and when the stage arises.

SMT. BHARATI DANGRE, J