BDP-SPS-TAC

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10287 OF 2019

Priya Narayan Pawar …..Petitioner.
V/s
Smt. Kantabai Narayan Pawar and Ors. ….. Respondents.

Mr. Siddhartha R. Ronghe for the Petitioner.
Mr. Dilip Bodake for Respondent Nos. 1 to 3.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 24, 2021

P.C.:-

1] Affidavit tendered by the Respondents in the light of observations made by this Court on 17th August, 2021 is taken on record.

2] Para 1 of the said affidavit reads thus :-

> "1. I say that I am filing this Additional Affidavit myself and on behalf of Respondent Nos. 1, 2 and 4/ original Defendant Nos. 1 to 4 in pursuance of the order dated 17.08.2021 passed by this Hon'ble Court. I say that the present Respondent No.3/ original Defendant No.3 is undertake this Hon'ble Court that he is willing to execute the cancellation of Gift Deed

> dated 28.10.2014, which was executed in favour of my son Rushikesh Ramesh Pawar in respect of Gat No.415 admeasuring 25 R. situated at Vadgaon Ghenand, Tal. Khed, District : Pune."

3] The said statement made on affidavit is accepted as an undertaking to this court.

4] As such, Respondents are given time of four weeks to submit before the Trial Court Deed of cancellation of Gift Deed as undertaken above. As far as Sale Deed dated 26th December, 2014 is concerned, contention is, Respondents have not received consideration as cheques were not deposited.

5] It appears that said complications are created because of the act of answering Respondents. Defendants though have executed Sale Deed dated 26/12/2014, cheques issued towards consideration were not presented for honouring. As such neither consideration is claimed to have accepted nor Sale Deed is acted upon by carrying out appropriate revenue entries in favour of the purchaser.

6] According to Mr. Bodake, Counsel for Respondent Nos. 1 to 3, it shall be the responsibility of these Respondents to maintain the same position i.e. not to accept the consideration and to maintain revenue entry as it is, as is existing as on date till disposal of the suit. Since the statement is made on instructions from Respondents i.e. Defendant Nos. 1 to 3, in my opinion, no further orders are required to be passed in the Petition as interest of the Petitioner/Plaintiff is already safeguarded. Mr. Bodake on instructions informs that in spite of execution of sale deed possession is with the answering Respondents i.e. Defendant Nos. 1 to 3 which statement is accepted.

7] Writ Petition stands disposed of accordingly.

(NITIN W. SAMBRE, J.)