

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION 1182 OF 2022
WITH
WRIT PETITION 2010 OF 2022**

Madhav Raghunath Chaudhary .Petitioner

Vs.

Janardhan Shankar Koli & ors. .Respondents

Mr. Kuldeep U. Nikam, Advocate, for the Petitioner in both matters

Mr. Umesh R. Mankapure, Advocate, for the Respondents 5 & 6

CORAM : ROHIT B. DEO, J.

DATE : 29.06.2022

P. C.

. These Petitions emanate from Special Civil Suit 115 of 2012 which is instituted by the Petitioner/Plaintiff seeking decree of specific performance and perpetual injunction.

2. It appears that during the course of trial, the Respondents 5 & 6 preferred an Application - Exh. 51 contending that the documents which purport to be Agreement for sale dated 26.05.2004 and possession letter

dated 01.06.2004 ought not to be exhibited. One of the objections raised by the Respondents 5 & 6 was that the said documents are insufficiently stamped. The learned trial Judge allowed the Application - Exh. 51 preferred by the Respondents 5 & 6, whereupon the Plaintiff moved an Application - Exh. 52 seeking impounding of the said documents. The learned trial Judge vide Order dated 26.03.2019 rejected the Application - Exh. 52 preferred by the Plaintiff on the premise that there is an obvious discrepancy in the documents and authenticity thereof is in serious dispute.

3. I need not consider the reasons recorded by the learned trial Judge elaborately. It is fairly not disputed by the learned counsel for the parties that the enquiry ought to have been limited to whether the document is insufficiently stamped and is required to be impounded. The learned trial Judge committed serious error in rejecting the prayer for impounding on the premise that the authenticity of the documents is in serious dispute. Such and similar questions could have been addressed and adjudicated by the learned

trial Judge after sending the documents for impounding.

4. In this view of the matter, the order impugned dated 26.03.2019 is set aside. Application - Exh. 52 preferred by the Plaintiff seeking impounding of the documents is allowed. It is, however, made abundantly clear that every objection, whether pertaining to the authenticity or relevance or admissibility of the documents in question, is kept expressly open for the learned trial Judge to adjudicate at an appropriate stage on the basis of evidence on record.

5. W. P. 1182 of 2022 is allowed and disposed of in the aforestated terms.

6. W. P. 2010 of 2022 assails the order dated 26.03.2019, whereby the learned trial Court has allowed Application - Exh. 51 preferred by the Defendants and has refused to exhibit the two documents referred to supra, on the premise that the Application preferred seeking impounding is rejected. While allowing W. P. 1182 of 2022, this Court has set aside the order of rejection of Application -

Exh. 52 which seeks impounding. In this view of the matter, nothing survives in W. P. 2010 of 2022. It is made clear that the issue will have to be decided after the documents are impounded and the admissibility will have to be addressed at that stage, as it is observed while disposing earlier W. P. 1182 of 2022.

7. Writ Petition 2010 of 2022 is disposed of.

(ROHIT B. DEO, J.)