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

WRIT PETITION 4077 OF 2022

M/s. Arunbhoomi Corporation	...	Petitioner
<i>Versus</i>		
Jayesh Kanji Maru	...	Respondent

Mr. Owen Menezes a/w Mr. Ravi Gadagkar i/by Usha R. Gadagkar for the Petitioner.

Mr. Sandesh D. Patil i/by Chintan Y. Shah for the Respondent.

CORAM: ROHIT B. DEO, J.
DATE : 5th JULY, 2022

P.C. :-

The petitioner is questioning the concurrent view of the learned Trial Court holding that the plaintiff in Special Civil Suit 637 of 2015 is entitled to injunctive reliefs in the nature of a restraint order *qua* the alienation. The Courts below have held that the plaintiff has demonstrated a good *prima-facie* case in as much as the plaintiff, according to the Courts below, is merely asserting his rights on the basis of consent order dated 11th November, 2009 in Writ Petition 3917 of 2009 and the consent terms.

2. According to the learned counsel for the petitioner both the Courts below failed to appreciate that the consent terms covered certain property which was not the subject matter of the lis and therefore, the consent terms and the order were amenable to payment of stamp duty and registration.

3. While the learned counsel for the respondent would submit that the consent order or terms which the High Court accepted as an undertaking need not be registered nor is stamp duty payable, I find that the said question is not considered in detail by the Courts below and is presumably left open for determination at an appropriate stage.

4. Irrespective of the narrative and the counter narrative, after some hearing both the learned counsel have agreed, on the basis of instructions received, that the question of registration and payment of stamp duty *qua* the consent order and terms can be left open for adjudication at the stage of recording evidence, if and when the said documents are tendered in evidence. In this view of the matter, no positive observation on the issue involved is necessary.

5. The petition is disposed of with the clarification that as agreed by the parties, the issue of registration and payment of stamp duty *qua* consent order and terms shall be adjudicated by the learned Trial Court at the stage of recording of evidence uninfluenced by any observation in the orders impugned.

6. Considering that the suit is instituted in the year 2015 and the grievance of the plaintiff dates back to 2006, the learned Trial Judge is requested to expedite the hearing of the suit and to make an endeavour to finally dispose of the suit within twelve months from the date of framing issues.

[ROHIT B. DEO, J.]