

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

WRIT PETITION 177 OF 2020

Mangesh Dashrat Gaikar ... Petitioner

V/s.

Shewantabai Waman Ghavat & ... Respondents
Ors.

Mr. Vaibhav R. Gaikwad for the Petitioner.
Mr. S. A. Rajeshirke for the Respondents.

CORAM : ROHIT B. DEO, J.

DATE : 20th JUNE 2022

P.C.

1. The petitioner is the defendant in Regular Civil Suit 247 of 2011 which is instituted by the respondents - plaintiffs seeking decree of declaration that the Relinquishment Deed which is executed by the plaintiff is null and void.

2. During the pendency of the suit certain Sale Deeds came to be executed concerning part or portion of the suit property. The plaintiff amended the plaint and sought a declaration that the Sale Deeds which are executed during

the pendency of the suit are illegal, null and void and do not bind the plaintiff and therefore are required to be cancelled.

3. The defendant preferred an application under Order 7 Rule 11 on the premise that the suit is not properly valued and the court fees which are paid is insufficient. Two Sale Deeds in particular are the bone of contention. According to the defendant while the consideration for the Sale Deed dated 16.09.2011 was Rs.8 lakhs, the market value of the property was Rs.40 lakhs and similarly while the consideration for the Sale Deed dated 12.06.2012 was Rs.5 lakhs, the market value was more than Rs.18 lakhs.

4. The learned Trial Judge rejected the application *inter alia* noting the praecipe filed by the plaintiff that is not pressing the relief of cancellation of the Conveyance Deed.

5. I do not see any error in the order impugned.

6. The plaintiff is not a party to the Sale Deeds and in view of praecipe, she is restricting the relief to a declaration that

the Sale Deeds are not binding on her. In any event, even had she not sought such a declaration, the Doctrine of *lis pendens* would have come into play and the Sale Deeds which are executed during the pendency of the suit would have been subservient to the ultimate decision.

7. The learned Trial Judge is right in the view which he took. No interference in writ jurisdiction is necessary.

(ROHIT B. DEO, J.)