

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4226 OF 2022

Ravikumar Jagdish Seth Vs. Dadarao Janu Damodar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.G.Kavimandan, Advocate for the petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 29/07/2022

1] Heard Mr. Kavimandan, learned counsel for the petitioner.

2] The petition challenges two orders, one dated 3.1.2022 passed below Exh.48 an application for stay of the suit on the ground that the agreement which is sought to be enforced has been obtained by fraud for which criminal complaint has been instituted by the defendant and it is contended that till the pendency of the criminal complaint the suit for specific performance needs to be stayed. The learned Trial Court by the order dated 3.1.2022 has rejected the application.

3] Mere challenging the document/agreement of sale by the defendant by filing criminal complaint cannot be said to be a ground available under Section 10 of CPC to the plaintiff to seek a stay of his own suit. That being the position, the order dated 3.1.2022 does not need any interference. Though reliance is placed upon **Ramanand Nanakaram Ladda vrs. Dr. Kacharulal Lodha,**

1998 (2) Mh.L.J. 112, it is apparent that the judgment does not consider the parameters of Section 10 of the CPC and therefore is not attracted.

4] The other order is on an application Exh. 51 by the plaintiff seeking to amend his plaint, which has been rejected by the order dated 14.6.2022. It is the contention of Mr. Kavimandan, learned counsel for the petitioner (original plaintiff) that since the defendant in his written statement has made a mention of filing of a criminal complaint regarding the agreement in question, the plaint needs to be amended. I do not any logic in this contention for the reason that once the defendant admits to have filed the criminal complaint regarding the agreement in question, the necessary pleadings is already on record in the averments of the defendant and in case the certified copy of the complaint is placed on record and sought to be admitted, the same would suffice the purpose. The question of amendment of the plaint would not arise at all, considering which I do not see any reason to interfere in the order dated 14.6.2022 rejecting the application for amendment. The writ petition is dismissed.

5] Since the petition challenges two orders, the petitioner shall pay deficit Court fees within a period of one week from today.