

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

WRIT PETITION NO.6161/2022

Riyaz Ahmed Khan Niyaz Ahmed Khan

...Versus...

Zaid Ahemad Shaikh Nasir Ahemad

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

Court's or Judge's orders

Shri P.A. Kadu, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/10/2022

1. Heard Shri Kadu, learned counsel for the petitioner. The petition challenges the order dated 20/07/2022, whereby the objection raised in regard to the agreement of sale (Exh.16) as insufficiently stamped is rejected by the learned Trial Court.

2. Shri Kadu, learned counsel for the petitioner has invited my attention to the observations of the learned Trial Court in the impugned order that the document is marked as exhibit, as it is an administrative act and the evidentiary value of the document will be decided as per the provisions of law. Though the reasons may be incorrect, the end result would be the same inasmuch as the agreement of sale at Exh.16 though

insufficiently stamped was accepted in the evidence of the plaintiff and marked as an Exhibit-16, to which, even the defendant has started cross-examination. Therefore, the marking of the document in the evidence of the plaintiff as an exhibit would indicate that the objection on the ground of it being insufficiently stamped would no longer be available to the defendant under Section 35 of the Maharashtra Stamp Act and the instrument having thus being admitted in evidence, such admission now cannot be questioned in the same suit. That being the position, I do not see any merit in the writ petition. The same is dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar