



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 9087 OF 2024

MIR MUSHTAQ ALI MIR INAYAT ALI
VERSUS
MOHAMMADI BEGUM LATE MOHD YOUSUF MIRZA DIED THR LRS NAJEE
FATIMA AABID MIRZA AND OTHERS

...
Advocate for the Petitioner : Mr. Kedar Shrimant Ravsaheb
AGP for Respondent/State : Mr. K.N. Lokhande
...

CORAM : ARUN R. PEDNEKER, J.

Dated : August 26, 2024

PER COURT :-

1. By the present writ petition, the petitioner/defendant seeks to strike out following portion of para No. 5 of the written statement by making amendment in the written statement, which are as under :-

Pleading required to striking out in para No. 5 :

"and there after defendant no. 3 legally executed the sale deed bearing no. 3021/2007 on dated 26.10.2007 in favour of defendant no. 4 to 7."

Pleading required to Amend as para no. 5-A :

"That said sale deed bearing no. 3021/2007 dated 26/10/2007 is a nominal sale deed and only executed for the purpose of security against the amount of Rs.1,00,000/- (one lakhs) borrowed by vendor Liyakatali etc. for the purpose of expenses towards several litigation pending in the Civil courts at Ambajogai and it was also decided in between said Liyakatali and defendants no. 4 to 7 that said amount will be paid to them after two years but as the plaintiffs here in without any reasonable cause initiated present proceedings and as said defendants no. 4 to 7 declined to re-execute sale deed. More over description of suit property is not sufficient to identify and all the persons who are and were in concern with disputed sale deed are not made party and there fore present suit is required to dismiss for want of

necessary party.”

2. Perusal of the proposed amendment shows that the defendant No. 3 wants to withdraw the admission made that sale deed dated 26.10.2007 is nominal one and only executed for the purpose of security against the amount of Rs.1,00,000/- (one lakh) borrowed by vendor Liyakatali etc. for the purpose of expenses towards several litigation pending in the Civil Court Ambajogai. Such admission made earlier cannot be strike out by deleting the pleadings. As such, I see no reason to interfere in the impugned order. The writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/