



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

32 WRIT PETITION NO. 9128 OF 2024

ASHA TUSHAR MARATHE AND ANOTHER
VERSUS
VIKRAM SHAMRAO PATIL AND OTHERS

...
Sr. Advocate for the Petitioner : Mr. P.V. Mandlik h/f. Mr. P.P. Mandlik
...

CORAM : ARUN R. PEDNEKER, J.

Dated : August 26, 2024

PER COURT :-

1. Mr. P.V. Mandlik, learned Senior counsel for the petitioner submits that Appellate Court in para No. 11 of the impugned order dated 6.7.2024 passed below Exh. 5 in Regular Civil Appeal No. 43/2024 has observed as under :-

"It is well settled that in the State of Maharashtra, if agreement for sale contains stipulation about handing over of possession, such agreement for sale falls in the category of conveyance and ultimately requires registration. However, the agreement for sale is unregistered document. Thus, prima facie the appellants possession on the basis of unregistered agreement for sale cannot be said to be legal."

Thus, the appellant Court in para 13 has held as under :-

"Prima facie the appellants' possession over the suit property is not lawful for two reasons. Firstly, they have taken the possession of the suit property which is occupancy Class II land without permission of competent authority. Secondly, the agreement for sale which confirms their possession over the suit property is not registered."

2. The learned Senior Counsel submits that the petitioner has paid amount of Rs. 13,40,000/- (Rupees thirteen lakh forty thousand) and

therefore, unregistered document can also be relied upon till the permission is obtained from the competent authority.

3. Issue notice to the respondents, returnable on 7.10.2024. Hamdast allowed. In addition, the petitioner is permitted to serve the respondents by all private modes i.e. E-mail, RPAD etc. and file service affidavit to that effect before the next date of hearing.

4. By way of ad-interim relief, the possession of the petitioner is protected till the next date.

5. Prayer of granting further interim relief will be considered after service of notice on respondents.

6. If the respondents are not served by the next date, the ad-interim relief granted today shall stand vacated automatically.

(ARUN R. PEDNEKER, J.)

ssc/