

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

**WRIT PETITION NO.5338 OF 2019**

Mohan Babulal Agarwal

....Petitioner

V/S

Mangal Narayan Thekedar & Ors.

....Respondents

**WITH  
WRIT PETITION NO.5350 OF 2019**

Raman Babulal Agarwal & Anr.

....Petitioners

V/S

Mangal Narayan Thekedar & Ors.

....Respondents

---

**Mr. Ronak Utagikar** i/b Mr. Tejas D. Deshmukh *for the Petitioners.*  
**Ms. Shruti Tulpule** *for Respondent Nos.1 to 9 through video conferencing.*

---

**CORAM: SANDEEP V. MARNE, J.**  
**DATE : 2 JULY 2024.**

**P.C.:**

1 In the present Petitions orders dated 31 January 2019 passed by 2<sup>nd</sup> Joint Civil Judge Junior Division, Solapur on Applications filed by Petitioners/Defendants seeking impounding of the document dated 6 December 1988 has been rejected.

2 I have heard Mr. Utagikar, the learned counsel appearing for the Petitioners and Ms. Tulpule, the learned counsel appearing for the Respondents in both the Petitions.

3 It appears that one of the purposes for which the Agreement for Lease dated 6 December 1988 is sought to be relied upon by the Defendants is the quantum of rent agreed therein which apparently defers from the rent claimed by the Plaintiffs in the suits. Therefore though there is no dispute about relationship between the parties as well as execution of lease, it cannot be said that the Lease Agreement dated 6 December 1988 would be altogether irrelevant for the purpose of deciding the suits. It appears that in both the suits there are specific prayers for recovery of rent. In that sense, the exact amount of rent payable in respect of the suit premises would be relevant and for that purpose the Defendants apparently desire to rely upon the Lease Agreement dated 6 December 1988. In my view therefore, the Trial Court has erred in holding that the said document need not be read or received in evidence.

4 It appears that the Defendants are yet to adduce their evidence. In my view therefore, the Agreement for Lease dated 6 December 1988 is required to be tendered in evidence by the Defendants and at that stage the Trial Court would be in a position to impound the same and send it for valuation and determination of deficient stamp duty. Mr. Utangikar submits that in addition to the Lease Agreement dated 6 December 1988 Defendants also wish to rely

upon another document titled “Bandhan Patra” allegedly executed on 2 June 2005 which also is required to be impounded and sent for adjudication of deficient stamp duty. It would be for the Trial Court to decide whether the said “Bandhan Patra” is required to be impounded or not. The Defendants would be at liberty to tender said “Bandhan Patra” alongwith evidence and the Trial Court would thereafter decide whether the said document is insufficiently stamped and whether it needs to be impounded.

5 Mr. Utangikar after taking instructions from his clients makes a statement that upon impounding of the Lease Agreement dated 6 December 1988 and in the event the Trial Court impounds the “Bandhan Patra” dated 2 June 2005 and if any deficient stamp duty is adjudicated on either or both the documents, the Defendants shall bear and pay such deficient amount of stamp duty. Statement is accepted as undertaking given to the Court.

6 Accordingly, orders dated 31 January 2019 passed by the Trial Court are set aside. Defendants are permitted to tender in evidence Lease Agreement dated 6 December 1988 as well as Bandhan Patra dated 2 June 2005. The Trial Court shall proceed to impound the Lease Agreement dated 6 December 1988 and send the same for adjudication of deficient stamp duty, if any. So far as Bandhan Patra dated 2 June 2005 is concerned, the Trial Court shall decide as to whether there is any deficient payment of stamp duty thereon and thereafter decide whether the same needs to be impounded or not. In the event any deficient stamp duty is found payable on either or both the

documents, the Defendants shall pay the deficient amount of stamp duty. The entire exercise of impounding the documents by the Court as well as adjudication of deficient amount of stamp duty by the concerned Collector of Stamps shall be completed within a period of four months from today.

7 With the above directions, the Writ Petitions are disposed of.

**(SANDEEP V. MARNE, J.)**