



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.9789 OF 2023**

Annappa Vhannappa Umrani

...Petitioner

**Versus**

State Of Maharashtra Thr Its  
Principal Secretary And Ors.

...Respondents

\_\_\_\_\_  
*Adv. Himanshu Pujari for the Petitioner*  
*Adv. B. B. Dahiphale AGP for the State.*  
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**Coram : Sharmila U. Deshmukh, J.**

**Date : September 13, 2024.**

**P. C. :**

1. Heard.
2. By this Petition, the challenge is to the order dated 5<sup>th</sup> July 2023 passed by the Respondent No.3 refusing to register the sale deed in respect of land bearing Gat No.658 out of which 0H. 00.94R land was purchased by the present Petitioner. Upon the document being presented for registration, the Respondent No.3 invoked the circular dated 12<sup>th</sup> July, 2021 and Rule 44(1)(i) of the Maharashtra Registration Rules, 1961 and refused the registration of the sale deed.
3. Learned counsel for the Petitioner submits that the issue of applicability of the circular dated 12<sup>th</sup> July, 2021 and Rule 44(1)(i) of the Maharashtra Registration Rules, 1961 was considered by the Division Bench of this Court in Writ Petition No. 2111 of 2022 in which the Division Bench had read down Rule 44(1)(i) of the Maharashtra Registration Rules, 1961 and declared that the same would not be

applicable. He would further point out that by the said judgment of this Court held that the Registering Authority is not to insist on compliance of the conditions imposed under Rule 44(1)(i) while registering the documents under Section 34 read with Section 35 of the Registration Act, 1908 and no document should be rejected by the registering Authority. He submits that therefore, the order could not have been passed by the Respondent No.3 rejecting the said Application.

**4.** *Per Contra*, learned AGP would submit that the decision of the Division Bench of this Court were challenged by the State Government by way of SLP No. 20659 of 2023 and would point out the order dated 28<sup>th</sup> July, 2023 passed by the Apex Court, staying the operation of the judgment and order of 5<sup>th</sup> May 2022. He would submit that as the order has been stayed, the Respondent No.3 has rightly passed the impugned order.

**5.** Considered the submissions and perused the record.

**6.** In an identical situation where the registration was refused in view of Section 8 of the Maharashtra Prevention of Fragmentation And Consolidation of Holdings Act, 1947 by invoking the circular dated 12<sup>th</sup> July, 2021 and Rule 44(1)(i) Registration Rules of 1961, the Division Bench of this Court had read down Rule 44(1)(i) of the Maharashtra Registration Rules, 1961 and declared that the same would not be applicable and further directed the registering Authority not to reject any document on the ground of non-compliance of the condition stated in the circular dated 12<sup>th</sup> July, 2021 or for non-compliance of the Rule 44(1)(i). The Apex Court by order dated 28<sup>th</sup> July, 2023 has stayed the operation of the judgment. However, in view of the decision of the Apex Court in the case of ***Shree Chamundi Mopeds Ltd vs Church Or South India Trust Assn. Csi*** [1992 AIR 1439]

the stay of the impugned judgment by the Apex Court would not have effect of staying the law which has been declared by the Division Bench by the decision of 5<sup>th</sup> May 2022. It is for the reason that at the interim stage, the Apex Court has not settled the law inconsistent or consistent with the one by the Division Bench of this Court and the stay of the impugned judgment and order will operate only qua the parties to the SLP. In light of the above, the Petition deserves to be allowed.

**7.** Resultantly, the impugned order dated 5<sup>th</sup> July, 2023 is hereby quashed and set aside. Respondent No.3 is directed to register the sale deed executed on 28<sup>th</sup> June, 2023 in favor of the Petitioners. Writ Petitions stands Allowed.

**[Sharmila U. Deshmukh, J.]**