

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4161 OF 2024

Ankush Tukaram Pol

.. Petitioner

Versus

Shivaji Tukaram Pol & Anr.

.. Respondents

-
- Mr. Shailesh Chavan i/by Mr. Milind Deshmukh for Petitioner

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 9, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe 09.09.2024.
3. Heard Mr. Chavan, learned Advocate for Petitioner.
4. Present Writ Petition challenges the Award passed by Lok Adalat on the ground of fraud and misrepresentation. According to Petitioner, Respondents obtained signatures of Petitioner on some papers stating that signatures were required for partitioning the suit properties. Admittedly it is seen that parties are relatives of each other. Petitioner has contended that he realized about passing of the Award and loosing of all his substantive rights in the suit properties in respect of which RCS No. 17/2018 was pending when subsequently Petitioner sold a portion of the suit property to a third party and the said third party was unable to mutate his name in the revenue record. Petitioner

received notice from the office of Tahsildar regarding the mutation, and at this time he was out of India and only when he returned it came to his knowledge.

5. Mr. Chavan would submit that RCS No. 17/2018 was pending in the Civil Court for partition and therefore if at all there was a compromise before the Lok Adalat, then it has to be in the interest of all the parties to the Suit and not in such a manner that substantive rights of the Petitioner are entirely taken away by the Respondents in the said compromise.

6. In view of the above, an arguable case is made out by Mr. Chavan for issuance of notice and calling for a reply from Respondents.

7. Hence, issue notice to the Respondents made returnable on 30.09.2024. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioner.

8. Respondents are directed to remain present either by themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

9. Stand over to **30th September, 2024.**

Amberkar

[MILIND N. JADHAV, J.]

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