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

WRIT PETITION NO. 378 OF 2024

Rushila Xavier Nunes

Petitioner

.. (Orig. Plaintiff)

Versus

Subhash Marcus Nunes and Ors.

.. Respondents

-
- Mr. Prafulla Shah i/by Gunjan Shah, Advocate for Petitioner.
 - Mr. Anil D'Souza a/w. Mr. Valentine Mascarenhas and Mr. Ernest Tusciano, Advocates for Respondent No.1.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 15, 2024.

P.C.:

1. Heard Mr. Shah, learned Advocate for Petitioner and Mr. D'Souza, learned Advocate for Respondent No.1.

2. At the outset, Mr. D'Souza seeks leave of the Court to place on record two specific documents namely deed of release executed by 7 persons namely 6 siblings of the deceased along with Respondent No.1. Deed of release is dated 23.05.2003. That apart, he would also place on record the details of the amount received by the Petitioner by cheque in view of the said release deed, *inter alia*, according to the Respondent No.1 coming to the share of the Petitioner.

3. On the strength of the aforesaid two documents, he would submit that once the Petitioner has received her share, the present

proceedings initiated by the Petitioner before the learned Trial Court would not be maintainable.

4. Be that as it may, Mr. Shah would submit that the deed of release is the subject matter of challenge in the suit proceedings on the ground of fraud.

5. Without expressing any opinion on merits of the present case, Mr. Shah is requested by the Court to consider the release deed and whether the Petitioner has indeed received the amount in her bank account or otherwise. After taking instructions, Mr. Shah would submit that the deed of release is fraudulent and this Court shall consider the same on the next adjourned date.

6. Mr. D'Souza would submit that the details of payment received by the Petitioner are against item No.7 in the document which is furnished to Mr. Shah today. Mr. Shah is directed by this Court to verify the same with the Petitioner.

7. Stand over to **29th January, 2024.**

[MILIND N. JADHAV, J.]

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