

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3913 OF 2024

Ashok Shripad Bharti & Anr.

.. Petitioners

Versus

Jitendra Govardhan Tanna & Ors.

.. Respondents

.....

- None present for the parties

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 13, 2024

P. C.:

1. On 20.03.2024, this Court passed the following order:-

“1. Heard Ms. Patil, learned Advocate for Petitioners.

2. Ms. Patil has drawn my attention to the impugned order dated 23.04.2018 passed in Application below Exhibit “6” which is at page No.149 of the Writ Petition. Order is passed on 23.04.2018 appointing Shri R.E. Yerunkar as Court Commissioner to complete the sale proceedings as directed by this Court in its order dated 27.10.2015. The details are mentioned in the order dated 23.04.2018. Perusal of paragraph Nos.2.8 and 2.10 of the Writ Petition show that the Court Commissioner Shri. R. E. Yerunkar has complied with the order dated 23.04.2018 and executed the sale deed on behalf of the Decree Holder on 17.03.2020. In that view of the matter, the order dated 23.04.2018 appears to have been worked out.

3. However, Ms. Patil seeks time to take appropriate instructions and inform the Court accordingly. She would further submit that subsequent order dated 16.01.2020 which is at page No.102 of the Writ Petition i.e. immediately after the Court Commissioner has complied with the order states that the Decree Holder is exempted from payment of stamp duty of Rs.680/- at the time registration of the sale deed. She would submit that the Petitioners would like to maintain challenge to this order also. However in the prayer clauses, there is no challenge maintained to this particular order.

4. Hence Petitioners are directed to take appropriate instructions and inform the Court accordingly on the next adjourned date the reason as to why they desire to challenge the order passed below Exhibit “15”, since this Court, prima facie, is of the opinion that the said order has been correctly passed in accordance with law. Only if the Petitioners show to the Court that there is some discrepancy in the order dated 16.01.2020, then the present Writ Petition will be entertained by this Court and not otherwise.

5. *Stand over to 3rd April, 2024 at 02:30 p.m."*

2. Today when the matter is called out, none appears for Petitioners. In view of the observations and findings arrived at by this Court, the only challenge which is maintained in the present Writ Petition to the impugned order dated 23.04.2018 is rendered infructuous as the said order has been completely worked out as observed by this Court in paragraph No. 2 of the above order.

3. In so far as the oral Application of Advocate for Petitioners to maintain a challenge to the exemption order from payment of stamp duty of Rs. 680/- is concerned, the same is of no consequence whatsoever as the Petitioners does not have any relief in respect of the said challenge. Hence, the said challenge cannot be maintainable.

4. In view of the above, Writ Petition stands dismissed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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