



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 302 OF 2020

Mangalabai Ramesh @ Ramchandra Chandak

VERSUS

Sambhaji Shivaji Mane

- Mr. V. B. Deshmukh, Advocate for the Petitioner
- Mr. S. V. Natu, Advocate for the Respondent

CORAM : R. M. JOSHI, J
DATE : OCTOBER 01, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order passed by the Trial Court rejecting Exh. 5 in RCS No. 159/2018 by order dated 14.03.2019 and confirmation thereof in Misc. Civil Appeal No. 29/2019 by order dated 02.05.2019.

3. The facts, as they appear from the record, indicate that the Petitioner/Plaintiff filed suit against Defendant being Special Civil Suit No. 159/2018 for declaration of the sale deed executed by her husband in favour of Defendant to be null and void and

further declaration that she is owner and in possession of the suit property admeasuring 1H 20 R land in Gut No. 17 situated at village Godhavad. It is the case of the Plaintiff that right and interest is created in the suit property in favour of her husband on the basis of compromise decree passed in RCS No. 228/2009. The Plaintiff claimed that the transaction in question is fraudulent and void. It is also claimed that the suit property is in possession of the Plaintiff as the possession was never handed over to the Defendant by husband of the Plaintiff. A dispute is also sought to be raised with regard to recitals in the agreement to sale indicating that two cheques towards part payment of consideration were of year 2011, whereas, the said agreement to sale came to be executed in the year 2018. Thus, on these amongst other contentions, interim relief is sought against Defendant.

4. Defendant resisted the suit and filed reply to the application Exh. 5. Learned Trial Court rejected the application of the Plaintiff on the ground that there exists a registered sale deed in favour of Defendants by virtue of right, title and interest has

been transferred in favour of Defendants and unless the said sale deed is set aside, no case is made out for grant of injunction. This order is confirmed by the District Court in Misc. Civil Appeal. Hence, this Petition.

5. Learned Counsel for the Petitioner/Plaintiff submits that Trial Court has committed error in treating cheque dated 03.07.2011 to be dated 03.07.2018. It is his further submission that in the agreement to sale the total consideration was agreed at Rs. 39,00,000/-, whereas sale deed came to be executed for sum of Rs. 29,20,000/-. He further submits that there were disputes between Plaintiff and her husband and she had filed suit for maintenance against him and so also seeking relief injuncting from creating any charge over the suit property. Before any order could be passed, transaction in question came to be executed. Thus, it is his submission that having regard to the fact of the case there is a cloud of suspicion over the transaction and as such, interim relief ought to have been granted in favour of Plaintiff/Petitioner.

6. Learned Counsel for the Respondents/Original

Defendants supported the impugned order.

7. Perusal of the plaint itself indicates that there is no dispute about the execution of sale deed in respect of suit property on 30.08.2018 by husband of Plaintiff. There is recital therein indicating handing over of possession of suit property by vendor to the purchaser. Since the title document of Defendant is a registered sale deed, it carries presumption of genuineness unless proved otherwise and the document is cancelled.

8. *Prima facie* recitals of the sale deed indicate that the entire consideration was sought to be paid by cheque. There is no dispute about the fact that within a month of execution of sale deed, vendor died. As a result of which, all the cheques were not realized. This unrealized amount, however, has already been deposited before Trial Court.

9. In the aforestated facts, unless the sale deed is cancelled, there could have been no reason or justification for the Trial Court to pass any interim relief in favour of the Plaintiff and hence, orders

impugned do no suffer perversity. In any case, the interim relief has been refused to Petitioner six years back. This Court, therefore, on merit as well as in view of the said fact of lapse of time in between, found no reason to cause interference in the impugned order.

10. In view of above discussion, Petition stands dismissed.

(R. M. JOSHI, J.)