

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6681 OF 2024

Ratanlal Gulabchand Gundesha and
Anr.

...Petitioners

V/s.

Maruti Laxman Hole and Ors.

...Respondents

Mr. Chaitanya B. Nikte with Ms. Esha Malik, and Mr. Prajit
Sahane for the Petitioners.

Mr. Vilas B. Tapkir for Respondent No.1.

Mr. R.S. Pawar, AGP for Respondent-State.

CORAM : SANDEEP V. MARNE, J.

Dated : 21 February 2025.

Oral Order :

1) **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for final disposal.

2) Petition challenges order dated 10 October 2023 passed by the District Registrar and Additional Collector, Pune, exercising jurisdiction under Section 82 of the Registration Act, 1908 (**the Act**) and directing the Joint Sub-Registrar of Assurances to exercise power under Section 83 of the Act to initiate action against the Petitioners under Section 82 of the

Act. It appears that in pursuance of impugned order dated 10 October 2023, an FIR has already been registered against the Petitioners.

3) I have heard Mr. Nikte, the learned counsel appearing for the Petitioners, Mr. Tapkir, the learned counsel appearing for Respondent No.1 and Mr. Pawar, the learned AGP appearing for the Respondent -State.

4) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Petitioners rely upon Power of Attorney dated 19 July 1995 and claim that Petitioners made self declaration on 30 December 2015 on the strength of the said Power of Attorney dated 19 July 1995. Mr. Nikte would also invite my attention to relevant covenant of Agreement for Sale dated 22 September 1995, which refers to execution of Power of Attorney in the name of partners of the purchasers for re-development of the land in question. Therefore, it becomes doubtful as to whether any false statement was made by the Petitioner at the time of registration of the Sale Deed. Power of Attorney dated 19 July 1995 may or may not be invalid and District Registrar could not have gone into that issue while deciding the proceedings under Section 82 of the Act. The allegation of making false statement and impersonation is essentially sought to be attributed to the claim of invalidity of Power of Attorney dated 19 July 1995. It appears that Respondent No.1-Complainant has already filed a Suit for setting

aside the Sale Deed on the basis of his assertion that he had never executed Power of Attorney dated 19 July 1995. Thus, the issue as to whether Power of Attorney dated 19 July 1995 was indeed executed or not is pending before the Civil Court. District Registrar could not have assumed that Power of Attorney dated 19 July 1995 is forged, that too while conducting enquiry under Section 82 of the Act.

5) In my view, the order passed by the District Registrar on 10 October 2023 is thus unsustainable and liable to be set aside. To my mind, there is no false statement on the part of the Petitioners. Mr. Nikte submits that Petitioners have relied upon Power of Attorney dated 19 July 1995 and have submitted self declaration on that basis. If the Power of Attorney dated 19 July 1995 turns out to be false before the Civil Court, District Registrar would be in a position to initiate appropriate proceedings against Petitioners under Section 82 of the Act. At this juncture, it is too premature to conclude that Power of Attorney dated 19 July 1995 is a forged document. Since the allegation of making the false statement and impersonation is squarely premised on assumption that Power of Attorney is forged, in my view the inference of making false statement and impersonation can be drawn only in the event of Civil Court holding that Power of Attorney is not a genuine document.

6) Petition accordingly succeeds. Order dated 10 October 2023 passed by the District Registrar and Additional Collector,

Pune, is set aside. However, setting aside of order dated 10 October 2023 shall not come in the way of Respondent No.1 exercising remedies in respect of challenge to the Sale Deed and Power of Attorney before the appropriate court of law. Such proceedings shall be decided independently on their own merits without being influenced by observations made by this Court in present order.

7) Rule is accordingly made absolute. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]