



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 104/2024

(VMB Homes, Partnership Firm thr. its Partners Vs. Sau. Ranjana Milind Dhale)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.A. Mardikar, Advocate for appellant.
Mr. P.S. Kadam, Advocate for respondent.

CORAM: ROHIT W. JOSHI, J.
DATED : 28/04/2025.

Heard.

2. This appeal is filed by original defendant. The respondent had filed a suit for specific performance of contract which is decreed by learned Trial Court and the said decree for specific performance of contract is confirmed by learned First Appellate Court while dismissing the appeal preferred by the original defendant. The only contention between the parties is as to whether the agreed sale consideration as per agreement is Rs.12,00,000/- or Rs.14,56,500/-. It is pertinent to note that the fact of execution of agreement is not in dispute. Perusal of the agreement demonstrates that the market value of the property is mentioned as Rs.14,56,500/-. None the less, both parties had agreed that the sale consideration would be Rs.12,00,000/-. Both learned Courts have recorded a finding of fact that agreed sale consideration was Rs.12,00,000/- and not Rs.14,56,500/- as contended by the

defendant. Having perused the agreement as also findings recorded by both learned Courts, I do not find that learned Courts have committed any error in interpretation of the agreement as regards to agreed sale consideration.

3. Learned counsel for defendant/appellant contends that as per agreement, the entire sale consideration was to be paid on or before 29.11.2011, however the same is paid on 10.05.2012. Learned counsel contends that since the payment is made beyond the stipulated period, the agreement is not binding on the defendant i.e. vendor. The said contention is rejected for the reasons that defendant has received amount of sale consideration beyond stipulated date and also on the ground that normally in transaction of sale of immovable property, time is not essence of the contract and the defendant has failed to establish that time as essence of contract.

4. In view of the findings recorded above, second appeal is dismissed as not disputed any substantial question of law.

5. The parties to bear their own costs.

(ROHIT W. JOSHI, J.)