



1357-2025

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1357 OF 2025

(Sau. Asha Sudhakar Gujar Vs. Jayant Mahendra Sapkal)

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

Court's or Judge's orders.

Mr. A.R. Deshpande, Counsel for the petitioner.

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CORAM : ANIL L. PANSARE, J.
MARCH 17, 2025

Heard.

2] The petition arises out of an objection raised by the petitioner to exhibit a document titled 'Agreement to Sale', which was tendered by the respondent – plaintiff in chief examination. The objection to exhibit the document is taken on the ground that the agreement to sale, which contains recital of delivery of possession, was neither properly stamped nor duly registered. The trial Court had exhibited the agreement vide order dated 6/3/2023. This order was challenged by the petitioner before this Court in Writ Petition No. 5835/2023, and vide order dated 13/2/2024, the impugned order was quashed and set aside with a direction to the trial Court to decide the objection raised by the petitioner afresh.

3] Despite such direction, the trial Court has passed the impugned order on 19/8/2024 postponing the decision on objection on the ground that the agreement to sale has been already marked Exhibit – 18.

4] The learned Counsel for the petitioner submits that once the order dated 6/3/2023, exhibiting agreement to sale, was quashed and set aside, there arises no question of document having been exhibited. He submits that in any case, the objection, as raised, ought to have been decided by the trial Court in terms of law laid down by Full Bench of this Court in *Hemendra Rasiklal Ghia Vs. Subodh Mody* [2008(6) Mh.L.J. 886].

5] In fact, the petitioner had filed application to recall the order by quoting the aforesaid judgment. However, the trial Court was pleased to reject the application vide impugned order dated 17/12/2024.

6] Issue notice to the respondent returnable on 21/4/2025.

7] In the meantime, there shall be stay to the proceedings being R.C.S. No. 321/2019 pending before 7th Joint Civil Judge Senior Division, Akola.

(ANIL L. PANSARE, J.)

Sumit