



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4941 OF 2026

Yogesh Baban Nimbalkar And Others

VERSUS

Subhash Bhimraj Deshmukh

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Mr. S. R. Dheple, Advocate for the Petitioners

CORAM : S. G. CHAPALGAONKAR, J

DATE : MAY 04, 2026

PC:

1. The present Writ Petition takes exception to order dated 01.01.2025 passed by District Judge, Vaijapur in Civil Appeal No. 34/2019 thereby upholding order dated 20.11.2019 passed by Civil Judge, Junior Division, Vaijapur below Exhibit 5 in RCS No. 43/2019.

2. The Respondent instituted suit for perpetual injunction. Petitioner/Defendant relying upon alleged agreement to sale dated 25.12.2009 claims to have possession over suit property.

3. Perusal of said document shows that it is a notarized on bond paper of Rs.100. There is stipulation of delivery of possession. Apparently, document is unstamped although it contains stipulation as to delivery of possession and would be a conveyance within the meaning of Stamp Act. The said document cannot be admitted in evidence for any purpose in view of Section 34 of Bombay Stamp Act. The Trial Court as well as Appellate Court on appreciation of pleading and evidence

of parties recorded finding that Plaintiff is in possession of suit property on basis of entries in 7/12 extract. The Courts have further observed that Petitioner is claiming right over property on basis of agreement to sale. However, neither Petitioner claimed specific performance of said agreement nor he has persuaded for same for more than 15 years. Apparently Courts have expressed reasonable doubt about nature of transaction between parties and refused to grant discretionary relief of temporary injunction. This Court finds no jurisdictional error in impugned order.

4. In that view of matter, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR, J.)

Umesh