

ORDER BELOW EXH.27.

1] Present application is filed by JD No. 2 for impounding the agreement to sell dt. 12-01-2007. The application is resisted by the DH vide say Exh. 29.

2] Perused the application and say thereon.

3] By virtue of present application JD No. 2 contended that DH have not paid stamp duty upon agreement to sell dt. 12-01-2007 in accordance with Article 33 and 34 of the Maharashtra Stamp Act . Therefore, it is necessary to impound the same. She prayed to allow the application and impounded the exhibit agreement to sell. Whereas DH in say Exh. 29, denied all the averments and admitted that stamp duty is leviable on the agreement to sell. But denied that stamp duty has not been paid by the DH and prayed to reject the application.

4] Prima facie it is seen that this is an execution petition filed on the basis of judgment and decree in Spl.C.Suit No. 758/2008. In said suit plaintiff placed reliance of agreement to sell on dt. 12-02-2007. Said suit was decided and decreed on merit. Now being executing Court this Court cannot go beyond the decree. Only question of execution of the sale deed as per decree is to be complied. Moreover, there is no any original agreement to sell is produced on record by either party. Therefore, also this application cannot be taken into consideration. Already original suit is disposed off and there are limitations to this Court being executing Court and therefore, this question at this stage cannot be decided. If at all JD

No. 2 has any grievance in respect of judgment and decree or any point or fact in issue then in that circumstances JD has every opportunity to challenge the same before Appellate Court, but at this stage, being executing Court this Court cannot go beyond the decree. Hence, application is liable to be rejected.

Nagpur.
Date: 05-02-2022

(Mrs. Renuka.M. Satav)
2nd Jt. Civil Judge, Sr. Dn., Nagpur

C E R T I F I C A T E

I affirm that the contents of this PDF file order are same word to word, as per the original order.

Name of the Stenographer	:-	Mrs. K. Harde
Court Name	:-	2 nd Jt Civil Judge Senior Division, Nagpur. Dist. Nagpur.
Date	:-	05.02.2022