



**ORDER BELOW EXH. 37 IN R.C.S.No.
17/2016**

Shankar Dundappa Magdum Vs. Baban Mahadev Gurav

CNR -MHKO130000652016

01. This is the application of the plaintiff filed under section 33 & 34 of the Indian Stamp Act, with specific request to impound the document of agreement to sell executed on dtd. 20/01/2003.

02. It is specifically submitted by the plaintiff that, original owner of the suit property has executed agreement to sell in favour of this plaintiff by way of agreement to sell. It is mentioned in the agreement to sell that possession of the suit property is handed-over in favour of the plaintiff. The document is executed on the general stamp paper of Rs. 100. It is the unregistered document. Therefore as the suit is put for hearing. The same document needs to be impounded. Resultantly, the current application is moved.

03. The application is objected by the defendant by way of his say below Exh. no. 39. It is specifically submitted that, agreement to sell executed is itself illegal. The suit property in respect of which agreement is executed was allotted to the defendant under the rehabilitation scheme. Therefore, it can't be alienated without prior permission of the Collector. It is further submitted that, this plaintiff has not followed the orders & directions of this Court issued in respect of production of the documents. In such a factual aspects, as the agreement to sell itself is illegal, it can not impounded. Hence, the defendant has prayed to reject the same.

04. Heard Adv. K.S. Kasote for the plaintiff & Adv. Shri. Y.R. Khot for the defendant.

05. I have perused the record. Original copy of the agreement

to sell is on record. Which is written on the general stamp paper of Rs. 100. Indeed, the same is unregistered. Now, this suit is put to the stage of hearing. This suit is filed for specific performance of the contract on the basis of unregistered agreement to sell. Therefore, the plaintiff wish to impound the same.

06. Indeed, the defendant has raised objection pertaining to the illegality of the agreement to sell on the ground that the suit property was alienated to the defendant under the rehabilitation scheme & therefore it can not be alienated. In my view, the same objection is part of merit. At this juncture, the Court can not look into the merits pertaining to the allegations leveled against the defendant & permission of the Collector for alienation of the suit property. Thus, as the suit is put for hearing, an opportunity needs to be given to the plaintiff to put forth his case by placing on record sufficient evidence. Resultantly, the application will succeed. Hence, following order is passed:-

ORDER

1. The application at (Exh. 37) is allowed.
2. The said document is impounded.
3. The said document to be sent to the District Stamp Collector, Kolhapur for calculating appropriate stamp duty over the said document.

Kagal.
Date: 04/01/2024.

Sd/-.
(A. B. Jawale)
Jt. Civil Judge Jr. Division Kagal.