

Kamlakar Salunkhe V/s. Baburao Javalekar
Special Civil Suit No.129/2011
CNR NO.MHSO06-0004602011

ORDER BELOW EXH.33

1. Present application has been filed by the defendant No.1 to 3 for passing necessary order in the matter and for awarding cost to the defendants. It has been contended in the application that, on the basis of agreement of sale dt.16/12/2001, the fraudulent suit has been brought by the plaintiff against the defendant No.1 to 3. The document sale agreement cannot be read in evidence as per Section 17(1-A) of The Registration Act, as it is unregistered. The same document is inadmissible in evidence and plaintiff cannot rely upon it. In the backdrop of it, the suit based on said document cannot be entertained by the court as the document cannot be admitted for any purpose before the court. In such circumstances necessary order be passed.
2. The application has been opposed by the plaintiff on the ground that, it is improper, incorrect and illegal. It is further objected on the ground that, plaintiffs case is relied upon unregistered sale agreement. Furthermore vide Exh.19 issues have been made. Plaintiffs evidence by way of affidavit has been placed on record since 11/12/2017. In such circumstances the application as filed becomes erroneous and liable to be rejected with cost. Therefore, it be rejected.
3. Heard plaintiffs counsel Shri. D.J. Bhosale. On the other hand counsel for defendant No.1 to 3 though filed written argument vide Exh.128 did not argue the application before the court. Furthermore defendant No.4 to 6 have adopted the argument of defendant No.1 to 3 filed vide Exh.128.
4. I have also gone through the citation filed on record by the defendant No.1 to 3 those are as follows.
 1. Gurubachan Singh V/s. Ranbir Singh decided by Hon'ble Punjab and Hariyana High Court in RSA No.243/2009 decided on 10/12/2009.
5. I have gone through the citation it is not applicable to the case as facts and circumstances defer.

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6. After having gone through the written argument of defendant No.1 to 3 and oral argument of plaintiffs counsel, it appears on record that, defendant No.1 to 3 have filed Exh.32 application for calling the original sale agreement dt.16/12/2001 for impounding. The same application has been allowed regarding calling and impounding the said sale agreement. In such circumstances after filing original sale agreement, the contents in the present application will be infructious. Furthermore present application appears to have been filed for no purpose. In such circumstances considering it meritless, it is rejected.

Dt.12/10/2018

(B. A. Kaduskar)
2nd Civil Judge, Senior Division,
Pandharpur.

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CERTIFICATE

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

Name of Employee : Y. V. Sital (Jr. Clerk)
Court : 2nd Jt. C.J.S.D. Pandharpur
Date : 12/10/2018
Judgment/order signed by
the Presiding Officer on : 12/10/2018
Judgment/Order uploaded on: 12/10/2018