

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.756 OF 2023

M/s. Metaltek Techno Projects

.. Applicant

Versus

Ashok Yashwantrao Shirole and Ors.

.. Respondents

.....

- Mr. S. C. Wakankar, Advocate for Applicant.

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 01, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Wakankar, learned Advocate for Applicant.
- 3.** Perused the praecipe dated 01.04.2024 and the Civil Revision Application.
- 4.** The impugned order is passed in Application filed below Exhibit-15 in Special Civil Suit No.1509 of 2022 under Order VII Rule 11 of the Civil Procedure Code, 1908 (for short '**CPC**'). It is contended by Defendant No.2 who is Revision Applicant before the Court that suit seeks declaration and consequential relief of injunction in respect of document executed between the parties as far back as in the year 2010.
- 5.** It is seen that Plaintiffs are challenging the registered sale deed dated 16.12.2010 and the present suit is filed to maintain such a challenge in the year 2022.

6. It is contended that despite 12 years having lapsed, Plaintiffs have not received entire consideration as stipulated in the sale deed. According to the Plaintiffs, they have received Rs.2.84 Crores and thereafter some cheques were received from the Defendants in the year 2015 which were dishonoured. In order to avoid multifarious suit proceedings and limitation being mixed question of law and facts, learned Trial Court has rejected the Application. It is seen that total consideration stipulated in the sale deed is Rs.9.05 Crores out of which certain portion (Rs.5 Crores) was adjusted towards residential premises of the parties and balance Rs.4.05 Crores was payable.

7. An arguable case has been made out by Mr. Wakankar for issuance of notice to Respondents.

8. Hence, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Applicant is directed to serve the Respondents a copy of this order and copy of the Civil Revision Application and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to file Affidavit-in-Reply to the Civil Revision Application on or before the next date.

9. Stand over to **15th April, 2024.**