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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER (ST) NO. 39157 OF 2025

Preeti Dayakishan Sapru alias
Mrs. Priti Sapru Walia

Appellant / Orig.
.. Plaintiff

Versus

Vishnu Undrya Thakre and Ors.

Respondents /
.. Orig. Defendants

-
- Mr. Prathamesh Vhanmane, Advocate i/by AVC & Associates for Appellant.
-

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2026.

P.C.:

1. Heard Ms. Vhanmane, learned Advocate for Appellant.
2. On 21.01.2026, after hearing the learned Advocate for Appellant, this Court passed the following order:-

"1. Not on Board. Mentioned by way of filing praecipe dated 21.01.2026. Perused the praecipe.

2. Heard Mr. Unahmane, learned Advocate for Appellant.

3. The impugned order is appended at Exhibit-A, page No.12 passed below Application Exhibit-188 by the learned Trial Court in the course of trial rejects Application of Appellant for placing on record registered document dated 15.11.2006 between the parties.

4. Mr. Unahmane informs the Court that despite Plaintiff having referred to and relied upon the said document in paragraph No.15 of the Suit plaint which is duly responded to and dealt with by Respondent in paragraph No.22 of the written submission, the impugned order has been incorrectly passed. I have perused the order.

5. It prima facie proceeds on the basis that the said document has not been referred to and relied upon by the



Plaintiff in the Suit plaintiff which has not given an opportunity to Defendant to respond to the same.

6. The noting of the facts in paragraph Nos.2 and 3 of the impugned order dated 26.11.2025 is prima facie contrary to the record of the case as pointed out by Mr. Unahmane while relying on paragraph No.15 of the Suit plaintiff and paragraph No.22 of the written submission.

7. An arguable case has been made out for immediate issuance of notice so that present Appeal from Order can be dealt with and returned to the learned Trial Court for continuation of Trial Court.

8. Considering that Appeal from Order is filed on 06.12.2025 it is moved today because next date before Trial Court is on 27.01.2026. It is stated in the praecipe that Trial Court has directed Appellant – Plaintiff to obtain necessary orders not to proceed in the case.

9. In that view of the matter, learned Trial Court is directed to defer the hearing of suit proceeding which is listed on 27.01.2026 by a further period of two weeks therefrom.

10. In view of above observations, issue notice to Respondents.

11. Humdast permitted. In addition to Court's notice, Appellant is directed to serve the Respondents a copy of this order and copy of Appeal from Order and inform about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof.

12. Respondents are directed to file their Affidavit-in-Reply on or before the next adjourned date.

13. It is seen that there are two suit proceedings between the same parties but they are listed differently.

14. Mr. Unahmane apprise the Court about the same on the next adjourned date so that both the Suits can be tagged together.

*15. Stand over to **29th January, 2026**. To be listed alongwith Appeal from Order (Stamp) No.39151 of 2025.*

16. Praecipe is disposed.”

3. The order dated 21.01.2026 has been duly served by Respondents / Defendants. It has been returned by one of the Defendant namely Defendant No.3. The rest of the Defendants have



been served. Today when the matter is called out for hearing, none appears for Respondents / Defendants. Equally, copy of the Appeal From Order has also been served on Defendants and they are not appearing.

4. Present Appeal From Order (Stamp) No.39157 of 2025 cannot be endlessly heard and adjourned by Court for want of appearances of Defendants. The controversy in the present matter has been duly recorded by this Court in the above order dated 21.01.2026.

5. The document in question is a registered Agreement dated 15.11.2006 between the parties to the Suit proceedings and in terms of Section 62 read with Section 64 of the Indian Evidence Act, 1872 it becomes a primary document and therefore is required to be marked as Exhibit in evidence. There is assertion of the said document is the Suit plaint as also denial and dealing with the very said document in paragraph No.22 of the Written Statement of Defendant Nos.1 and 2, which is *prima facie* placed on record at page No.85 of the Appeal From Order.

6. In that view of the matter, the reasoning given by the learned Trial Court in paragraph No.4 of the impugned order is not sustainable in law. The impugned order dated 26.11.2025 is therefore quashed and set aside, resultantly allowing Application below Exhibit '181' filed by Plaintiff. Registered Agreement for Sale dated



15.11.2006 is directed to be marked as Exhibit in evidence in accordance with law by the Trial Court.

7. Needless to state that the contents of the said document shall be proven in accordance with law, keeping all contentions of Defendants for examining the Plaintiff's witness on the said document expressly open.

8. In view of the above, Appeal From Order (Stamp) No.39157 of 2025 is allowed and disposed.

[MILIND N. JADHAV, J.]

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