

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 20<sup>th</sup> OF JUNE, 2023**

**MISC. PETITION No. 1924 of 2022**

**BETWEEN:-**

**SURAJ S/O BHAVSINGH DAMOR, AGED  
ABOUT 30 YEARS, OCCUPATION:  
AGRICULTURIST R/O AAMLI PATHAR  
TESHIL MEGHNAGAR (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI NITIN PHADKE, ADVOCATE)***

**AND**

**1. KHUMAN S/O BHAVSINGH DAMOR, AGED  
ABOUT 40 YEARS, OCCUPATION:  
AGRICULTURIST R/O AAMLI PATHAR  
TEHSIL MEGHNAGAR (MADHYA  
PRADESH)**

**2. STATE OF M.P. THR THE COLLECTOR  
JHABUA (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SHAILENDRA SHRIVASTAVA, ADVOCATE FOR RESPONDENT  
No.1)***

.....  
*This petition coming on for admission this day, the court  
passed the following:*

**ORDER**

Heard finally, with the consent of the parties.

2] This petition has been filed by the **petitioner/defendant No.1** under Article 227 of the Constitution of India against the order dated 05.04.2022, passed in Civil Suit No.54-A/2016 by Civil Judge, Junior Division, Thandla, District-Jhabua (M.P.) whereby the document of relinquishment filed by the plaintiff during the course of evidence has been allowed to be admitted. The objection on behalf of defendant No.1 in respect of the aforesaid document was that the document is a deed of relinquishment and requires to be compulsorily registered and was used by the plaintiff for the main purpose of the petition and was not for the collateral purposes. The aforesaid objection was rejected by the learned Judge of the Trial Court vide impugned order dated 05.04.2022, holding that since the document has already been duly stamped after it was impounded and since there is no bar that it cannot be used for collateral purposes, it is admissible under proviso of Section 49 of the Registration Act, 1908.

3] Counsel for the petitioner has also drawn the attention of this Court to the deed of relinquishment, in which the defendant No.1 has absolutely relinquished his right in the disputed land in favour of the plaintiff for a consideration of Rs.40,000/-. Thus, it is submitted that it was an outright relinquishment and was an absolute transfer of property which requires compulsory registration and considering the fact that the suit itself was filed for declaration on the basis of the aforesaid document only that the defendant No.1 has already relinquished his rights in the disputed land in favour of

the plaintiff, it is submitted that the document was not used for any collateral purposes but for the main purpose.

4] In support of his submissions, Shri Phadke has also relied upon a decision rendered by the co-ordinate Bench of this Court in the case of **Gordhan, S/o Kheemaji Mogiya Vs. Dinesh, S/o Champalalji and Others** reported as **2017 (4) M.P.L.J. 565**, in which case, it was a transaction of sale and this Court while relying upon a decision rendered by the Supreme Court in the case of **K.B. Saha and Sons Private Limited Vs. Development Consultant Limited** reported as **(2009) 8 SCC 564** has held that the document cannot be used for collateral purposes.

5] On the other hand, counsel for the respondent has opposed the prayer and it is submitted that no case for interference is made out as admittedly, the document of relinquishment was duly stamped after it was impounded and although it is compulsorily registrable, but still, can be used in evidence for collateral purposes. It is submitted that the collateral purpose of this document is the admission on the part of defendant No.1, of the possession of the plaintiff and in such circumstances, the document was not at all required to be registered to admit it in evidence.

6] In support of his submissions, Shri Shailendra Shrivastava has relied upon a decision rendered by the Supreme Court in **Avinash Kumar Chauhan Vs. Vijay Krishna Mishra** reported as **2009 (3) M.P.L.J. 289** and another decision rendered by the Gwalior Bench of this Court in **W.P. No.789 of 2017** in the case of **Ashok Kumar**

**Gupta Vs. Vijay Kumar Gupta and Ors. dated 17.01.2018.**

7] Heard counsel for the parties and perused the record.

8] On perusal of the record it is found that so far as the suit filed by the respondent/plaintiff is concerned, it is for declaration of title and possession as the plaintiff's case is that the defendant had relinquished his part of the land to him in the year 2011 for a consideration of Rs.40,000/- and thus, he has already relinquished his right on the said land and since then, the plaintiff is continuously in possession of the said property.

9] In the considered opinion of this Court, when the suit of the plaintiff in itself is based upon the document of relinquishment and the plaintiff's possession has also emanated from the said document, it cannot be said that the relinquishment part of the land has no relevance in the suit and thus, it cannot be said that the aforesaid document can be used by the plaintiff for collateral purpose, *i.e.*, in respect of possession only. The dictionary meaning of collateral is that something which is incidental, un-intended and secondary to the main purpose. Thus, when a suit for declaration of title and mandatory injunction is filed on the basis of a deed of relinquishment, it cannot be argued by the plaintiff that relinquishment part of the deed was inconsequential, and that the deed can be used to prove the possession only when he is also relying upon the relinquishment of the land.

10] In such circumstances, this Court is of the opinion that the order passed by the learned Judge of the Trial Court clearly suffers

from misreading of the plaint and the deed of relinquishment and is liable to be interfered with.

11] So far as the decisions relied upon by the counsel for the respondents in the case of **Ashok Kumar Gupta (Supra)** and **Avinash Kumar Chauhan (Supra)** are concerned, they are distinguishable.

12] In the case of **Ashok Kumar Gupta (Supra)**, this Court has not discussed the collateral nature of the document or what was the collateral purpose. In the case of **Avinash Kumar Chauhan (Supra)** also, the Supreme Court has held that if the document is properly stamped then it can be used for collateral purpose, but as has been held by this Court in the present case, that the document was not being used for collateral purpose only and in fact, when the cause of action has arisen to the plaintiff on the basis of the said document only, it cannot be stated to be a document used for collateral purpose only.

13] Accordingly, the impugned order is hereby set aside and the petition is *allowed*. Learned judge of the trial court is requested to proceed further in accordance with law.

(SUBODH ABHYANKAR)  
JUDGE