

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No(s). 6772 of 2019
(@SLP(C) 34778 of 2016)**

PRAKASH SAHU

Appellant(s)

VERSUS

SAULAL & ORS.

Respondent(s)

ORDER

Leave granted.

We have heard learned counsel for the parties.

The short question in the present appeal is whether an unregistered agreement of sale can be seen for collateral purposes under the proviso to Section 49 of the Registration Act, 1908.

The Trial Court based its reasoning on a decision of this Court in **S. Kaladevi vs. V.R. Somasundaram & Ors.** (2010) 5 SCC 401 elucidating as follows:-

“(I) In that situation it is essential for the registration of the document, if, unregistered is not admissible in evidence under Section 49 of the Registration Act.

(ii) Yet, such unregistered document can be used by way of collateral evidences provided in the proviso to the Section 49 of the Registration Act.

(iii) For effecting with the collateral transaction, whose registration is required by law should be free from the transaction or be divisible from that.

(iv) Collateral transaction should be such a transaction

which may not be automatically expected of effecting by the registered document, i.e. Rupees One Hundred or any transaction or instrument or right or interest in any immovable property of the value of more than Rupees One Hundred.

(v) If the document is inadmissible in evidence in the absence of registration then any of its estoppel cannot be admitted in evidence and for use of the document for purposes of proving important part, it would not be utilized by way of collateral purpose.”

The High Court failed to consider the aforesaid while holding that the unregistered document could not be taken into consideration for collateral purposes.

We consider the same as sufficient reason to set aside the order of the High Court and restore the order of the Trial Court dated 18 March, 2016.

The appeal is accordingly, allowed.

Pending application(s), if any, shall stand disposed of.

.....J.
(Navin Sinha)

.....J.
(B.R. Gavai)

New Delhi
September 2, 2019

ITEM NO.51

COURT NO.11

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 34778/2016

(Arising out of impugned final judgment and order dated 01-08-2016 in WP No. 7381/2016 passed by the High Court of M.P Principal Seat at Jabalpur)

PRAKASH SAHU

Petitioner(s)

VERSUS

SAULAL & ORS.

Respondent(s)

Date : 02-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s)

Mr. Akshat Shrivastava, AOR
Ms. Pooja Shrivastava, Adv.

For Respondent(s)

Mr. Akshay Girish Ringe, AOR
Ms. Megha Mukerjee, Adv.
Mr. Siddharth Joshi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)