

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 955 OF 2009

Ganpati s/o Rama Kumbhar **APPELLANT**

V E R S U S

Rama s/o Bapu Kumbhar
[Deceased] Thr. L.Rs. **RESPONDENTS**

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Mr. C.R.Deshpande, Advocate for Appellant.

Mr. M.K.Deshpande, Advocate for R.Nos. 2-A to 2-C.

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CORAM : T.V.NALAWADE, J.

DATE : 23rd SEPTEMBER, 2015

ORDER :-

1. Heard the learned counsel for the appellant.
2. The appellant/original plaintiff had filed Suit for declaration and injunction in respect of agricultural land. Original defendant No. 1 is father of present appellant and original defendant No. 3 is his mother. They did not turn up to contest the Suit. Only defendant No. 2- purchaser of the property from defendant No. 1 contested the Suit.
3. The reasonings given by the courts below

show that the defendant No. 1 was tenant on the relevant date under Hyderabad Tenancy and Agricultural Lands Act [For short, 'H.T. & A.L. Act'] and Certificate of purchase under that Act was also given to him. He then sold the property to defendant No. 2. In view of the circumstances, courts below have held that it was self-acquired property of defendant No. 1.

4. Learned counsel for the appellant submitted that the courts below have also given one finding that the sale deed made in favour of defendant No. 2 was against the provisions of Section 50-B of H.T. & A.L. Act as necessary procedure was not followed.

5. Learned counsel for the appellant placed reliance on two cases, viz. 1984 Mh.L.J. 736 [Jain Shwetambar Sthanak Vs. Chintamani Bajirao Naiknavare & Ors.], in which case provision of Section 50-B of H.T. & A.L. Act is considered and it is observed that the transaction would be invalid.

One more case like decision given by this Court at Principal seat which is reported in 1982 (2) Bom.C.R. 18 [Dnyanoba Sukhdeo Lande & Anr. Vs. Shrirang Mahatarji Dhurwade], in which similar observations are made.

6. As there was no question of giving declaration in favour of the plaintiff or present appellant and there was no question of giving relief of perpetual injunction, courts below have not committed error in

dismissing the proceeding. There are concurrent findings and law is settled on these points. In view of the finding given to the aforesaid issue, the appropriate authority may take proper action as permissible in law and so there is no possibility of interference or formulation of substantial question of law for admitting the Appeal.

7. In the result, Second Appeal stands dismissed.

[T.V.NALAWADE, J.]