

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

SECOND APPEAL NO.31/2006

Sadashiv Laxman Mehekarikar.
...Appellant..

Versus

Pandurang Govind Funde & others.
...Respondents...

.....

Shri M.K. Deshpande, Advocate for appellant.
Respondent nos.1A,1B, 2A to 2I, 3a to 3j, 4A to 4I, 5, 6,
7, 8A to 8C and 9 served.
Appeal against respondent no.2g dismissed vide Court
order dated 11.6.2014.

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CORAM: N.W. SAMBRE, J.

DATE: 23.06.2015

ORDER :

- 1] Heard learned counsel for the appellant.
- 2] This appeal is by the original plaintiff, who preferred a suit for injunction and in the alternative, suit for partition and separate possession. According to him, the defendant nos.3 & 4, who have stepped into the shoes of their father Govinda, were entitled to the share in the suit property and he has every right to seek

- 2 -

injunction to that extent. Apart from above, if not injunction, he has prayed for partition and separate possession of the suit property.

3] Admittedly, the property in question is governed by the provisions of the Bombay Tenancy and Agricultural Lands Act.

4] The appellant herein claims the title to the property to the extent of share of the defendant nos.3 & 4.

5] The suit of the appellant came to be dismissed after appreciating the evidence having noted that the conduct of the appellant was contrary to the provisions of the above referred Act. The learned trial Court, while dealing with the claim of the appellant on merits, has referred to the proceedings taken under the said Act before the Maharashtra Revenue Tribunal.

6] While questioning the legality and validity of both the judgments delivered by Courts below, the appellant herein - plaintiff, though has urged that he is entitled for partition and carving out of separate share to the extent of purchase of the same from the defendant nos.3 & 4, admittedly has not taken any permission from the

- 3 -

competent authority under the Act by which the land in question is governed.

7] Apart from above, both the Courts have concurrently held that the appellant is not entitled for the relief as claimed.

8] In my opinion, no substantial question of law is involved in the second appeal. The appeal thus fails and stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)