

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

SECOND APPEAL NO.720 OF 2014
WITH
CIVIL APPLICATION NO.12041 OF 2011

Narhari s/o Ganpat Dagdu,
Age 41 years, Occu. Tailoring,
R/o Sailu, Taluka Sailu,
District Parbhani

..Appellant
(Orig.defendant No.2)

Versus

1. Ganesh s/o Rangnath Sasane,
Age 43 years, Occu. Frame Maker
2. Dadarao s/o Rangnath Sasane,
Age 41 years, Occu. Lohar
3. Dattatraya s/o Rangnath Sasane,
Age 36 years, Occu. Carpenter,

All r/o Sailu, Taluka Sailu,
District Parbhani

- | | | |
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| [4] | Ramesh s/o Ramkishan Sasane
Age 41 years, Occu. Nil,
R/o Bhandwale Galli,
Sailu, Taluka Sailu | } Appeal dismissed vide
} Court's order dated
} 7 th March 2012
} |
| 5. | Prakash s/o Baburao Sasane,
Age 36 years, Occu. Service
R/o as above | } Appeal dismissed vide
} Court's order dated
} 7 th March 2012 |
| [6] | Laxmibai w/o Baburao Sasane
Age 76 years, Occu. Household
R/o as above | |
| 7. | Chief Officer, Municipal Council,
Sailu, Taluka Sailu,
District Parbhani | ..Respondents |

Mr R.N. Bharaswadkar, Advocate for appellant
Mr S.W. Mundhe, Advocate for respondent No.3
Appeal dismissed as against respondents No.4 and 6 vide Court's
order dated 7th March 2012

CORAM : N.W. SAMBRE, J.**DATE : 14th July 2015****PER COURT**

1. The appellant herein claiming to be owner of the property, suffered decree in Regular Civil Suit No.168 of 2000, whereby the sale deed dated 29th November 2000 claimed to have been executed by the original defendant No.1 in favour of defendant No.2 i.e. present appellant, came to be declared as null and void and not binding on the plaintiffs.

2. The appellant who is defendant No.2 to the suit preferred an appeal before the District Judge-1, Parbhani which has suffered same fate, as such present second appeal.

3. The main relief that is claimed in the present appeal is as against the original owner i.e. Ramesh Ramkishan Sasane, who is defendant No.1 to the suit and against him the present second appeal has already been dismissed on 7th March 2012.

4. Subsequent thereto, the present second appeal was dismissed in default by an order dated 28th January 2014 which was set aside on 13th April 2014 at the request of present appellant. Leave apart, since the dismissal of appeal as against original defendant No.1 and who has sold the property to the present appellant, the appellant has not taken any steps for restoration of appeal by making prayer for setting aside the order dated 7th March 2012.

5. In view of above facts, the appellant who claims to be owner of the suit property is already facing the proceedings before the Civil Court vide Misc.Civil Application No.61/2000 which were arising out of the decree passed in Regular Civil Suit No.59/2000 for eviction of the appellant in the capacity of tenant.

6. The above referred conduct of the appellant, in my opinion, does not call for equity, particularly when the appeal itself was dismissed in 2012 against respondent No.4 – original defendant No.1 and subsequent thereto the appeal was dismissed in default and restored at the behest of present appellant, except respondents No.4 and 6.

7. As such, the appeal which sans merit, stands dismissed.

8. In view of dismissal of Second Appeal, Civil Application does not survive and stands disposed of.

(N.W. SAMBRE, J.)

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