

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.291 OF 2013

(Shri Bapu Krushna Shinde Vs. Shri Vithal Govind Shelke and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's orders.

Shri Uday P. Warunjikar, Advocate for Appellant.
Shri Dipak Shinde, Advocate for Respondent.

CORAM: R.K. DESHPANDE, J.

DATE: 29th JULY, 2015.

The challenge in the suit was to the gift-deed dated 10.02.1967 at Exh.61 executed by the appellant in favour of the defendant Nos.1 to 10, on the ground that the conditions of gift-deed have not been complied with. The agreement dated 15.04.1967 to construct *Gopal Krishna Mandir* was also sought to be enforced. Both the Courts are held that the plaintiff is not entitled to any relief.

The registered gift-deed dated 10.02.1961 cannot be held to be invalid merely for non-compliance of the conditions. The finding recorded by the Courts below that it is an outright sale or that it is an agreement for sale are hardly of consequence when the plaintiff has come up before this Court challenging the registered gift-deed. The Courts have also held that the suit was barred by limitation to seek enforcement of the agreement dated 15.04.1967. Thus, no substantial

question of law arises in this case. The second appeal is dismissed.

The learned counsel for the appellant submits that out of 10 defendants, 8 defendants have accepted the claim contained in the agreement dated 15.04.1967. However, once it is held that the suit is barred by limitation, the said question does not arise.

JUDGE