

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.331 OF 2015
IN
FIRST APPEAL (ST).NO.28913 OF 2014

Sunil Karansingh Khadka .. Applicant
-Versus-
Satish Balasaheb Bhaleghare & Ors. .. Respondents

Mr.Sandesh Shukla i/b. Abhay Nevagi & Associates for applicant

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

1] Heard learned Counsel for the applicants. None appears for respondents, though duly served. The learned Advocate for applicant has filed on record affidavit of service dated 13th February 2015.

2] This application is for leave to file first appeal to challenge the judgement and decree dated 8th October 2013 passed by the Civil Judge, Senior Division, Pune in Special Civil Suit No.1558 of 2011.

3] Learned Counsel for the applicant submits that the respondent i.e. original plaintiff and defendants filed collusive suit for specific

performance of agreement in respect of suit property being S.No.18/1, 26/1 and 27/1 situated at village Kudali Khurd, Taluka Bhore, Dist. Pune.

4] The learned Counsel for the applicant submits that in the special civil suit No.1558 of 2011, no one appeared on behalf of defendants. Hence, the trial court passed ex parte decree directing the defendant Nos. 1 to 6 to execute sale deed in respect of the suit property in favour of the plaintiff by accepting balance amount, if any.

5] Learned Counsel for the applicants submits that the applicant is owner of the suit property. He had purchased the suit property by sale deed dated 3rd November 2010. He further submits that in revenue record also his name was shown as owner. In spite of that, the respondents have not joined him as party in the suit. Therefore, in the interest of justice, this Court be pleased to allow the applicants to file the first appeal, challenging the judgement and decree dated 8th November 2013 passed by the trial court in Special Civil Suit No.1558 of 2011.

6] In the present proceedings, it is the case of the applicant that he is the owner of the suit property. Even the revenue record at the relevant time showed his name as owner. Considering the submissions made by the learned Counsel for the applicant and the reasons disclosed in civil application, I am satisfied that the applicant has made out a case for allowing the application.

7] Hence, the following order:-

(A) Application is allowed in terms of prayer clause (a), which reads thus:-

“(a) That this Court be pleased to grant the applicant leave to appeal against the judgement and decree dated 8th October 2013 passed by the learned Civil Judge, Senior Division, Pune in Special Civil Suit No.1558 of 2011”

(B) Liberty is granted to applicant to take out appropriate proceedings for remaining prayers and that will be decided on its own merits and in accordance with law.

(K.K.TATED, J.)