

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.180 OF 2010
WITH
CIVIL APPLICATION NO.526 OF 2010
WITH
CIVIL APPLICATION NO.329 OF 2014
WITH
CIVIL APPLICATION NO.1460 OF 2014

Parashram Malhari Palaskar (deceased)

1A. Satyabhamabai Parashram Palaskar
and ors.

.. Appellants.

V/s

Dnyaneshwar Bapu Palaskar and ors.

.. Respondents.

Anita Castellino i/b Kartik Aiyar, for the Appellants.

PN. Poshi i/b Nikhil Pujari, for Respondent Nos. 1 to 4.

Sachin Gite, for the Respondent Nos. 5 to 7.

CORAM : RAVI K. DESHPANDE, J.

DATED : 22nd JULY, 2015

P.C.

1. The Trial Court has dismissed Regular Civil Suit No.228 of 1993 for partition and separate possession on 7th August, 2002. Regular Civil Appeal No.34 of 2002 has been dismissed by the Lower Appellate Court on 14th December, 2009. The original plaintiffs are

appellants before this Court in the Second Appeal.

2. The suit was for partition and separate possession. The Courts below have concurrently held that the plaintiffs have failed to establish that the suit property was ancestral property. Both the Courts below have relied upon the Certificate issued under Section 32M of the Bombay Tenancy & Agricultural Lands Act in the name of father of the defendant Nos. 1 to 4. It is urged that the property was purchased by Bapu for which funds were contributed by the plaintiffs.

3. Civil Courts cannot go beyond the Certificate issued under the Bombay Tenancy & Agricultural Lands Act to hold that the plaintiffs have shares in the property though the Certificate stands exclusively in the name of Bapu. There is no case made out in the pleadings that the plaintiffs had contributed for purchase of this

property. In the absence of such pleading, no amount of evidence can be admitted. The Courts below have held that the plaintiffs have not brought on record any evidence to show that the property is joint family property and hence, no substantial question of law arises. Second Appeal is dismissed.

4. In view of dismissal of the Second Appeal, none of the Civil Applications survive, the same are dismissed.

(RAVI K. DESHPANDE, J.)