

Monday, 9 February, 2015

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.105 OF 2013
ALONGWITH
CIVIL APPLICATION NO. 308 OF 2013
IN
SECOND APPEAL NO. 105 OF 2013

Khandu Ugle and Ors.

.....Appellants

: V/S :

1. Shri. Jagannath Deoram Sanap
and Ors.

.....Respondents

* * * * *

Mr. P.N. Joshi, Advocate for the appellants.

Mr. Karan Thorat, Advocate for respondents no.3 to 5.

* * * * *

Coram :- Smt. R.P. SondurBaldota, J.

9th February, 2015.

P.C. :-

1). This appeal is filed by the original plaintiff to challenge the concurrent findings of the Courts below as regards the refusal of the relief of specific performance. By the agreement dated 15th November, 1975 the appellant purchased the suit property for the total consideration of Rs.15,000/-. According to the appellant, the entire consideration had been paid at the time of agreement. In the year 1982, he filed suit for

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specific performance. The trial Court rejected the same holding that, the property did not exclusively belong to the vendor of the appellant and that the other co-sharers were not parties to the agreement. The lower appellate Court confirmed the decree by its judgment and order dated 17th September, 2012. Mr. Joshi, the learned Advocate appearing for the appellants submits that the Courts below ought to have granted specific performance atleast to the extent of share of the vendor of the appellant.

2). The grant of specific performance being a discretionary relief, unless it is established that the discretion has been exercised either in an unjust manner or in a perverse manner, the same cannot be interfered with. There is nothing on record to indicate such defect in exercise of discretion. The Second Appeal is therefore dismissed.

(SMT. R.P. SONDURBALDOTA, J)