

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No.153/2015

(Raju Chhaganlal Sharma .vs. Ramesh Ramdas Joshi and another)

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

Court's or Judge's orders.

Mr. P.C. Madkholkar, Advocate for Appellant.
Mr. N.B. Kalwaghe, Advocate for Respondent No.1.

CORAM : A.V. Nirgude, J.
DATED : March 31, 2015.

Heard.

The appellant challenges the concurrent findings recorded by the Courts below that his possession was unauthorised.

The respondent no.1/plaintiff came with a case that he did not induct appellant/defendant no.1 in the suit house. It is his case that he had appointed respondent no.2 as his representative to take care of the house but he unauthorisedly inducted appellant/defendant no.1 in the suit house. He branded appellant/defendant no.1 as trespasser and sought possession.

Appellant/defendant no.1 filed a written statement stating that he took the house on rent from defendant no.2 who made a representation that he was authorised to let out the house to him. However, he could not prove though number of witnesses were examined, that defendant no.2 was authorised by respondent no.1/plaintiff to deal with the property such as letting out the same. Unfortunately for

appellant/defendant no.1 he could not examine defendant no.2, who ought to have deposed before the Court as to how he was authorised and in what manner he dealt with the suit house. He could have even mentioned that previously also he had let out the suit house to various parties and that the respondent no.1/plaintiff raised no objection and received rent from him etc. The Courts below recorded the findings that they did not believe the case of the appellant/defendant no.1 that he was authorised occupier of the suit house.

I perused the judgments of both the Courts below and found them not very happily worded but in view of the absence of defendant no.2's testimony, the respondent no.1/plaintiff must succeed.

The appeal does not give rise to any substantial question of law. Dismissed.

JUDGE