

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

Second Appeal No. 185/2014

(Madhukar Janraoji Shende and another .vs. Smt. Vimal Hiranman Nerkar)

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

Court's or Judge's orders.

Ms. K.R. Dhole, Advocate for Appellants.
Mr. R.T. Anthony, Advocate for Respondent.

CORAM : A.V. Nirgude, J.
DATED : MAY 06, 2015.

Heard.

The original defendant challenges concurrent finding recorded by the Courts below. It was held concurrently that appellant/defendant is a trespasser and is required to be removed from the suit land. The respondent/plaintiff proved her ownership and sought decree for possession. The appellant/defendant took up a stand that he is tenant but it was shown to the Civil Court that the plea of tenancy was turned down by the Tenancy Court. It is thus clear that issue of tenancy was not relevant for deciding this case. I asked the learned counsel for the appellant as to whether her client had pleaded any alternative defence to show proprietary concern to the suit land. She asserted that her client also mentioned as his defence that he had agreed to purchase the suit land and as proposed purchaser he possesses the same. In other words she tried to suggest that her client is protected under the provisions of Section 53-A of the Transfer of Property Act. On perusal of the statement, it is found that such plea was not

taken. This submission is, therefore, not relevant and was not available to the learned counsel for the appellant.

Appeal does not give rise to any substantial question of law. Second Appeal stands dismissed. No orders as to costs.

JUDGE

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