

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

SECOND APPEAL NO.577 OF 2012.

(RAMESHCHAND MADANLAL GOLECHA...VS..VIJAYKUMAR KAPURCHAND KOTTECHA)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : OCTOBER 06, 2015.

Heard Shri M.G.Sarda, learned advocate for the appellant and Shri V.R. Choudhari, learned advocate for the respondent Nos. 1, 2, 4, 5, 6, 7 and 8. The respondent No.3 is reported dead. None for the respondent Nos. 9 to 12 and 14 to 17 though served.

The appellant-original plaintiff has filed this appeal challenging the judgment and decree passed by the subordinate Courts dismissing the suit filed by him seeking decree for possession in respect of the suit land.

The claim of the appellant is that he is entitled to protect his possession under Section 53-A of the Transfer of Property Act as he is in possession of the suit land pursuant to the agreement dated 5th December, 1979. It is submitted that the subordinate Courts have committed an error in not accepting the claim of the appellant on the basis of the agreement dated 5th December, 1979 and holding that the appellant-plaintiff has failed to prove the agreement dated 5th December, 1979 overlooking the fact that the compromise dated 5th December, 1979 had taken place during pendency of the Second Appeal No. 181 of 1978.

I have examined the challenges raised on behalf of the appellant. I find that the concurrent findings recorded by the subordinate Courts are proper and based on the pleadings, documents and the evidence on the record. The appellant has not been able to carve out any substantial question of law worth considering in this second appeal.

The appeal is **dismissed** with costs.

The appellant shall pay costs of Rs.Five Hundred to each of the respondent Nos. 1, 2, 4, 5, 6, 7 and 8.

JUDGE

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