

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

7 SECOND APPEAL NO. 528 OF 2011
WITH CA/12148/2011 IN SA/528/2011

BHARAT CHANDRABHAN INGLE
VERSUS
VISHWAMBHAR SAMBHAJI SHINGARE DIED TH LRS YASHODABAI
VISHWAMBAR SHINGARE AND ORS

...
Advocate for Appellants : Kulkarni M.A.

...
CORAM : T.V. NALAWADE, J.
DATED : 7th June, 2016.

ORDER :

1. The appeal is filed to challenge the judgment and decree of Regular Civil Appeal No. 266/1985, which was pending in the Court of Civil Judge, Junior Division, Kaij and also against the judgment and decree of Regular Civil Appeal No. 162/1996, which was pending in District Court, Ambajogai, District Beed. The suit filed by present appellant for relief of partition and separate possession is dismissed and there is concurrent finding of the Courts below. Heard the learned counsel for appellant.

2. The suit was filed against the father and other two persons. It appears that the father has exchanged the property with other parties to the suit and so, the relief was claimed against other parties also. The suit is dismissed mainly on the

ground that present appellant Bharat was not born on the date of transaction and so, he had no right to challenge the transaction made by his deceased father. The school record was considered and it showed that he was born after the disputed transaction. The plaintiff placed reliance on the entry made in birth register by Village Panchayat showing that he was born prior to the disputed transaction. This entry was made many years after the date of birth i.e. in the year 1992 and after filing of suit by Bharat. This entry was not in accordance with the Registration of Birth and Death Act and no order was made to make such entry in the year 1992. All these circumstances are considered by the Courts below and it is held that such entry cannot be recognized in the eye of law and it has no presumptive value. The findings are concurrent on this point. No substantial question of law as such is involved in the present matter. So, the appeal stands dismissed. Civil Application is disposed of.

[T.V. NALAWADE, J.]

ssc/