

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

SECOND APPEAL NO. 787 OF 2015

Mr. Shiva Ganpati More.

... Appellant.

V/s.

Mr. Machindra Babu Pawar & Anr.

... Respondents.

Mr. Ajay A. Joshi for the Appellant.
None for the Respondents.

CORAM : N.M. Jamdar, J.

13 June, 2016.

P.C. :-

The Suit was filed by the Respondent No.1 for permanent injunction against the Appellant which has been decreed by the learned Civil Judge, Junior Division, Pandharpur and the Appeal filed by the Appellant in the District Court, Pandharpur has been dismissed. Both the Courts have concurrently found that the Respondent No.1 is in possession of the property under a registered sale deed dated 12 August 1985 and since the Appellant is disturbing the possession of Respondent No.1, the Respondent No.1 is entitled to an order of injunction.

2. The learned Counsel for the Appellant submitted that without there being any cogent evidence, the learned District Judge has

concluded that the sale deed dated 12 August 1985 was for legal necessity and this observation will affect in the suit filed by the Appellant against the Respondent No.1 for declaration that the sale deed is not binding on him. The present Suit is filed for injunction and both the Courts have concurrently held that the Respondent No.1 is in possession and therefore, this observation in respect of sale deed in question are in respect of a Suit filed for injunction. The Suit filed by the Appellant is pending which will be disposed of on its own merits.

3. The apprehension of the learned Counsel for the Appellant that the observation rendered in this Judgment will prejudice his rights in the pending Suit is unwarranted as there was no issue framed as regard the title of Respondent No.1 in the present Suit.

4. In the circumstances, no question of law arises. The Second Appeal is dismissed.

(N.M. Jamdar, J.)