

JPP

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

SECOND APPEAL NO. 369 OF 2014

Mr. Kisan Ganpat Mind.

... Appellant.

V/s.

Smt. Rekha Shivaji Gaikwad and Ors.

... Respondents.

Mr. Kisan Baburao Sonwalkar for the Appellant.

CORAM : N.M. Jamdar, J.

21 June, 2016.

P.C. :-

The Appellant challenges the concurrent judgment and decree passed by the Civil Judge, Junior Division, Phaltan and the District Judge, Satara decreeing the Suit filed by the Respondents – Plaintiffs and dismissing the Appeal of the Appellant. The Suit was filed for partition and separate possession of the Suit property. Both the Courts recorded the finding of fact that the property in question was ancestral property and the sale deed executed in favour of the Appellant – purchaser was not binding on the share of the Respondents – Plaintiffs.

2. Heard the learned Counsel for the Appellant. The Suit filed by the Respondents – Plaintiffs for partition. There is no dispute as regard the relationship between the parties and as regard the property in

question being ancestral. The learned Civil Judge has recorded that the ancestral nature of the properties in question is not disputed by the parties including the Appellant. While dismissing the Appeal, the learned District Judge held that the Appellant is not entitled to any relief. The learned District Judge confirmed the finding that the properties in question were ancestral properties. It is also proved that there was a partition in the year 1987 that the Original Defendant No.1 had no right to sell the properties to the Appellant. In the circumstances, the learned District Judge found that the issue of legal necessity did not survive.

3. The learned Counsel is not able to show any error to upset the finding of fact that the properties were ancestral, there was a partition and the properties in question was not allotted to the share of Defendant No.1 that he could sell it to the Appellant.

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

(N.M. Jamdar, J.)