

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

**SECOND APPEAL NO. 449 OF 2014
WITH
CIVIL APPLICATION NO. 926 OF 2016**

Shri Balkrishna Dinkarrao Kshirsagar Appellant
(Original Defendant)
Versus

Shri Vitthal Vishnu Kshirsagar Respondent
(Original Plaintiff)

Mr. Nikhil Wadikar i/by Mr. Nandu Pawar, for Appellant
Mr. S. S. Patwardhan, for Respondent

***CORAM : N. M. Jamdar J.
Thursday 7 July, 2016***

P. C.

1. The appellant challenges concurrent Judgments and Orders passed by the Civil Judge (Senior Division), Satara dated 15 December, 2009 in Special Civil Suit No. 133 of 2007 and order passed by the Principal District Judge, Satara dated 2 May, 2014 in Regular Civil Appeal No. 48 of 2010.

2. The learned Civil Judge (Senior Division), Satara decreed the suit filed by the respondent/plaintiff and directed the appellant to pay Rs. 1,44,000/- with interest @ 6 % per annum. The suit was filed by the respondent/plaintiff for recovery of amount of Rs. 1,44,000/-, which has been decreed.

3. Heard the learned Counsels for the parties. The learned Counsel for the appellant submitted that there was a transaction out of erstwhile partnership firm for sale of some immovable property, pursuant to which, an amount of Rs. 4,00,000/- was deposited by the appellant in the bank account towards repayment of loan of the respondent. The respondent was deposited the amount in the bank. He submitted that at the time of executing a deed for sale of land hurriedly, the signature on the deed was taken.

4. These contentions cannot be accepted. In short, it is a theory of the appellant that he was misled in signing the Document, even though he had not received the amount. The Court has negated the theory after assessment of evidence. The appellant is not a rustic villager. He was a Circle Officer, working with the Revenue Department and admitted that he was fully conversant with the procedure of documentation and he would not sign any document without fully reading the same. In view of this position, the theory put up by the appellant that signature was hurriedly taken, cannot be believed and it is rightly disbelieved by the Courts. The arguments advanced by the learned Counsel for the appellant are relating to appreciation of evidence. No question of law, much less substantial question of law arose.

5. For the amount of Rs. 1,44,000/-, the respondent is driven for three proceedings up to this Court. Therefore, merely

dismissing the appeal would not serve the interest of justice unless part of the litigation expenses are imposed on the appellant by way of costs.

6. Accordingly, the appeal is dismissed with costs of Rs. 25,000/- to be paid to the respondent within a period of four weeks from today. If the amount is not paid, it is open to the respondent to recover the same, as part of execution proceedings.

(N. M. Jamdar, J.)