Sequeira

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 597 OF 2015
Along with
CIVIL APPLICATION NO. 1331 OF 2015
IN
SECOND APPEAL NO. 597 OF 2015
Along with
CIVIL APPLICATION NO. 1332 OF 2015
IN
SECOND APPEAL NO. 598 OF 2015
and
SECOND APPEAL NO. 599 OF 2015

Mrs.Beena Ramdayal Agarwal @ Gupta .. Appellant
Vs.
Mr.Ramsharan Banarasidas Agarwal
@ Gupta & anr. .. Respondents

Ms.Shruti Tulpule, for the Applicant.
Mr.Rahul Kashid, for Respondents.

CORAM: N.M. JAMDAR, J.
Friday, 11 March 2016.

PC. :

These Appeals are filed by the Original Defendant No.2 in challenging the orders passed by the District Judge Pune, on 17 June 2015 confirming the findings of the Civil Judge, Junior Division Pimpri, Pune by which the suit filed by the Respondent No.1-Plaintiff was decreed.

2. The Appellant here was Defendant No.2 in the said suits and the wife of the Defendant No.1. The Defendant No.1 had also filed Second Appeals bearing No.594 of 2015, No.595 of 2015 and No.596 of 2015 challenging the very same orders passed by the Civil Judge, Pimpri Pune and the District Judge, Pune which appeals were dismissed by detailed order passed yesterday i.e. on 10 March 2016, after hearing both the sides.

3. The learned counsel for the Appellant submitted that the Sale deed in question was not considered in proper perspective with reference to the events that transpired in the year 1984. She submitted that the Plaintiff had failed to show that there was any independent source of income to purchase the properties in question, and the properties were joint family properties, for which there is a presumption in law. This very contention was advanced in extensio in the Appeal filed by the Defendant No.1 and has already been dealt with and is rejected. The District Court in its decision has also noted that the Appeals filed by the present Appellant and the appeals filed by her husband-Defendant No.1 are identical on facts. As has been held in the order passed in the appeals filed by Defendant No.1 this question of fact has been rightly considered by both the Courts below.

4. The learned counsel then tried to urge a point regarding suits filed for presumption, which was never taken in both the Courts neither it appears in the appeal memo. At this stage, an entirely new point cannot be permitted to be agitated. In view of the dismissal of the Appeal No. No.594 of 2015, No.595 of 2015 and

No.596 of 2015 and based on the reasoning given in the said Appeals, which for the sake of brevity are not reproduced in the order, the Appeals cannot be entertained. No substantial question of law arises, only question of facts are sought to be urged which have been rightly answered by the learned Civil Judge and District Judge concurrently.

5. The Appeals are accordingly dismissed.

(N.M. JAMDAR, J.)