

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

SECOND APPEAL NO.639 OF 2013

Bharat Babruwahan Chavan. .. Appellant
Vs.
Namdeo Babruwahan Chavan & Ors. .. Respondents

Mr. Ajay Joshi for Appellant.
Mr. Anand Kulkarni for Respondent Nos.1 to 4.

CORAM : R.D. DHANUKA, J.
DATE : 18th August 2016

P.C.

. By this appeal filed under Section 100 of the Code of Civil Procedure, 1908, the appellant has impugned the judgment and order dated 28th June 2013 passed by the learned District Judge-4, Solapur dismissing the appeal filed by the appellant challenging the order and decree dated 26th June 2003 passed by the learned trial Judge dismissing the suit filed by the appellant inter alia praying for declaration of his ownership and perpetual injunction and in the alternative for partition.

2. Learned counsel appearing for the appellant invited my attention to the judgment and decree dated 26th June 2003 and also to the judgment and order dated 28th June 2013 passed by the appellate Court and would submit that since the learned trial Court as well as the appellate Court had rejected the substantial prayer of the appellant for declaration of his ownership and perpetual injunction, the trial Court as well as the appellate Court ought to have considered the alternate relief claimed by the appellant. He fairly submits that in so far as the substantial prayer of the appellant is concerned, the appellant had not been able to prove his claim for ownership and perpetual injunction.

3. Learned counsel appearing for the respondent, on the other hand, invited my attention to the findings recorded by the learned trial Judge as well as the appellate Court and would submit that both the Courts have not only considered the substantial prayer made by the appellant but also the alternative relief and rendered various findings which findings are concurrent findings and are not perverse and thus cannot be interfered with by this Court under Section 100 of the Code of Civil Procedure, 1908.

4. A perusal of the impugned order and decree dated 26th June 2003 passed by the learned Civil Judge, Junior Division indicates that after perusing the documentary and oral evidence led by both the parties, the learned trial Judge has dismissed the suit in respect of both the reliefs claimed by the appellant by recording various reasons. The appellate Court has independently considered the documentary and oral evidence led by both the parties and rendered various findings of facts. A perusal of the order passed by the appellate Court also clearly indicates that the appellant had failed to prove his claim for declaration of his ownership and perpetual injunction and also alternatively for partition. The findings recorded by the both the Courts below are concurrent findings which are not perverse and cannot be interfered with by this Court under Section 100 of the Code of Civil Procedure, 1908. There is no substantial question of law arising in this appeal. In Appeal is devoid of merit and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.