

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.337 of 2016
(Hussain s/o Gambhira Chouhan and another v. Sitaram s/o Kashinath
Hedaoo)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri S.G. Karmarkar, Advocate for Appellants.
Shri Mohd. Shareef, Advocate for Respondent.

Coram : R.K. Deshpande, J.
Date : 22nd November, 2016

The Trial Court passed a decree for possession on the basis of title, which is maintained by the lower Appellate Court in appeal. The original defendants are before this Court in this second appeal.

The suit property was owned by one Sulochana Chouhan, about which there is no dispute. Sulochana became the owner of the suit property by virtue of the sale-deed dated 11-12-1972 at Exhibit 25 in her favour. She executed the sale-deed at Exhibit 53 in respect of the suit property on 17-1-1980 in favour of one Prabha Dhengre. The respondent-plaintiff derived title to the suit property on the basis of the sale-deed dated 7-12-1981 from the said Prabha Dhengre. All these sale-deeds have been established. Hence, the Courts below have passed a decree for

possession.

Shri Karmarkar, the learned counsel for the appellant-defendants, has raised a point of limitation and submits that the respondent-plaintiff became the owner of the suit property by virtue of the sale-deed dated 7-12-1981 and the suit for possession was filed by him on 29-4-2006. According to him, the appellant-defendants had perfected the title on the suit property by way of possession. Undisputedly, the limitation for filing the suit was governed by Article 65 of the Limitation Act. It is not the case of the appellant-defendants that they are in possession of the suit property from the respondent-plaintiff, who is found to be the owner of the suit property. The appellant-defendants claimed possession over the suit property from Sulochana Chouhan, who has already parted with the ownership of the property. In view of this, the bar of limitation does not arise.

Thus, no substantial question of law arises in this second appeal. The second appeal is dismissed.

Judge.

Lanjewar