

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

Second Appeal No.245 of 2013
(Mohd. Mushaque Mohd Ismile (Diwanji) and another v. Mohd. Shafique
Mohd. Sadique)

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

Shri Amit Khare, Advocate for Appellants.
Shri A.M. Quazi with Shri V.S. Giramkar, Advocates for
Respondents

Coram : R.K. Deshpande, J.

Date : 6th June, 2016

The Trial Court passed a decree on 13-11-2009 in Special Civil Suit No.248 of 2006 granting a declaration that the sale-deed dated 26-2-2004 executed by the defendant No.1 in favour of the defendant No.2 is illegal, sham, bogus and fraudulent document without any consideration and, therefore, it is not binding upon the plaintiffs. The defendants are further restrained by an order of injunction from transferring, selling or alienating the suit property or disposing it of in any way on the basis of the sale-deed dated 26-2-2004. The lower Appellate Court has dismissed Regular Civil Appeal No.224 of 2009 on 3-4-2013. The original defendant Nos.1 and 2 are, therefore, before this Court in this second appeal against the concurrent findings of fact recorded by the Courts below.

The undisputed factual position is that the suit property was purchased in the name of the plaintiffs, who were minors, on 4-4-1990 from one Smt. Parvatibai. It was purchased by the defendant No.1, acting as a guardian of the plaintiffs. All the plaintiffs attained the majority prior to 26-2-2004, and thereafter the defendant No.1 sold the property to his mother, who is the defendant No.2. Both the Courts below are concurrent in holding that after attaining the majority by the plaintiffs, there was no question of defendant No.1 selling the property in the name of the defendant No.2 without any authority from the plaintiffs.

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

Judge.

Lanjewar