

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9750 OF 2017
IN
SECOND APPEAL NO. 330 OF 2012
(Sakhubai Nagnath Chavan Vs. Nagnath Gangaram Chavan)

Mr. Vilas P. Savant, Advocate for the applicant
Mr. A.P. Basarkar, Advocate for the respondent

CORAM : SANGITRAO S. PATIL, J.

DATE : 25th JULY, 2017

ORAL ORDER:

Heard the learned counsel for the applicant.

2. The learned counsel for the applicant points out to the order dated 6th August, 2012, passed by this Court in Second Appeal no. 330 of 2012, whereby the respondent (original appellant in Second Appeal) has been permanently restrained from alienating the suit property to the extent of 36 Ares out of block No. 403 situate at village Sirsala, Taluka Parali-Vaijnath, District Beed.

3. The total area of the land of the respondent is 1 Hectare 36 Ares. It is alleged that the respondent is alienating certain portion of his land and therefore, it is necessary to specifically demarcate 36 Ares of land

over which the charge for maintenance of the applicant has been created and the respondent has been restrained from alienating that much portion of land. Admittedly, the charge of the applicant has been shown in the Record of Rights of the land block No. 403. There is nothing in the application to show that the respondent has sold out the land exceeding 1 hectare and thereby reduced the area of 36 Ares of land over which there is charge for maintenance of the applicant. In case the respondent tries to alienate the property exceeding 1 hectare of land out of the total area of 1 hectare 36 Ares, there will be cause of action for the applicant to take necessary action against the respondent. Since such cause of action is not there at present, the Civil Application being premature, is dismissed with liberty to the applicant to move the Court when the cause of action would arise.

4. The Civil Application stands disposed of.

[SANGITRAO S. PATIL]
JUDGE