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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO. 54 OF 2012
WITH
CIVIL APPLICATION NO. 725 OF 2012
AND
CIVIL APPLICATION NO. 5641 OF 2016
IN
SECOND APPEAL NO. 54 OF 2012**

Vilas Shankar Dhamdhere,
Age: 52 years, Occu: Agri. & Service,
R/o. New Municipal Colony,
Building No.9, Shrikrushna Chowk,
Kurla (West), Mumbai – 400 070

..APPELLANT

VERSUS

1. Kisan Shankar Pawar,
Age: 88 years, Occu: At present Nil,
R/o. Near Vitthal Mandir, Daund,
Tq. Daund, Dist. Pune
2. Shivram Shankar Dhamdhere,
Age: 49 years, Occu: Agri and service
3. Suryakant Shankar Dhamdhere,
Age: 46 years, Occu: Agri. & service

Both R/o. New Municipal Colony,
Building No. 9, Shrikrushna Chowk,
Kurla (West), Mumbai – 400 070

..RESPONDENTS

Mr N. C. Garud, Advocate for appellant

CORAM : N. W. SAMBRE, J.

DATE : 7th June, 2017

ORAL ORDER

Respondent no.1-plaintiff instituted Regular Civil Suit No.319 of 2001, seeking relief of perpetual injunction, based on title, in the Court of

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Civil Judge Junior Division, Shrigonda. It is claimed that the property land Gat No.251, ad measuring 3 Hectares and 42 R (old Gat No.429-old survey no.168-A, B, C) at Kautha and land Gat No.251 (old no.429-old survey no.16813-A-, B, C) at Kautha is in possession and ownership of respondent no.1-plaintiff. It is claimed that the said was purchased by the plaintiff from one Babu, his blood relation in the year 1960 and 1979 by registered sale deeds. Based on the said title the suit in question came to be filed.

2. The appellant-defendant no.1 resisted the claim by filing their written statement contending that the title in favour of the present respondent no.1 is not clear and they are lawfully in possession of the suit property. Exh.29 written statement speaks voluminous about the same.

3. The learned Trial Court framed issues at Exh.30 and recorded findings thereto as under :-

Sr. No.	Issues	Findings
1	Does plaintiff prove that he is owner and possessor of suit land ?	In the affirmative
2	Does plaintiff prove that defendants are causing obstructions in his peaceful possession on suit land ?	In the affirmative
3	Is plaintiff entitled to perpetual injunction as prayed ?	In the affirmative
4	What order and decree ?	As per final order

4. Having considered that the title in favour of the respondent was proved, the Trial Court proceed to decree the suit vide judgment and

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decree dated 24th January, 2007, which was confirmed in appeal being Regular Civil Appeal No.93 of 2007 by the learned District Judge-7, Ahmednagar, vide judgment and decree dated 3rd August, 2011. Thus, the present Second Appeal.

5. Mr Garud, learned Counsel appearing on behalf of the appellant-defendant no.1 would try to prevail upon the Court to consider the ground as regards ignorance of the finding recorded by the Additional Divisional Commissioner, Nashik Division, Nashik in relation to the suit property in is order dated 4th October, 2001, passed in the proceedings between the parties under Section 257 of the Maharashtra Land Revenue Code whereby the name of the present appellant was incorporated as legal heir of deceased Shankar who claimed to be the original owner of the suit property. According to him, the issue of title as has been answered in favour of respondent no.1-plaintiff by both the Courts below suffers from illegality and as such the same needs to be re-considered.

6. With the assistance, I have perused the findings recorded by both the Courts below. The ownership of the plaintiff was held to be proved by the learned Trial Court based on oral and documentary evidence. The documentary evidence viz. The respective sale deeds in respect of the land in question dated 20th August, 1960 and 16th November, 1979 in relation to the suit property were appreciated. The execution of these sale deeds during the life time of Shankar, who died on 12th April, 1982 is also appreciated.

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7. Once, in view of the sale deeds the title of respondent no.1-plaintiff was proved, in my opinion, the findings of fact recorded by the learned Courts below do not call for any interference, much less having not noticed any perversity in appreciation of the evidence.

8. So far as the second finding as regards ignorance of the orders passed by the Additional Commissioner in the revenue proceedings are concerned, the same will hardly be of any assistance to the appellant particularly when such revenue entries were only for fiscal purpose and title to the suit property of the respondent no.1-plaintiff was also proved.

9. In view thereof, the Second Appeal does not involve any substantial question of law and accordingly stands dismissed. Pending Civil Applications do not survive and stand disposed of accordingly.

(N. W. SAMBRE, J.)

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