

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 36 OF 2017

AGNELO TEODORE D'SOUZA, REP BY POA
MR. ANIL VINAYAK AGARWADEKAR AND
ANR.,

... Appellants

Versus

JOHN SEBASTIAN D'SOUZA (DECEASED)
THR LEGAL HEIRS AND 5 ORS.,

... Respondents

Mr. Feriol Andrade, Advocate for the Appellants.

Coram:- F. M. REIS, J.

Date:- 8th March, 2017

P.C.

Heard Mr. Feriol Andrade, learned Counsel appearing for the Appellants.

2. The challenge in the above Appeal is to the Judgments passed by the Courts below whereby the Suit filed by the Appellants came to be dismissed. The learned Counsel appearing for the Appellants has impugned the Judgments of the Courts below on the grounds that both the Courts have erroneously come to the conclusion that the Appellants are not entitled to the relief sought in the Suit. The Learned Counsel submits that the appellants assumed that the disputed Sale Deeds are null and void as according to him the survey records disclose an area much bigger than the area which was sold pursuant to the

subject Sale Deeds. The learned Counsel further submits that the Sale Deeds were not to the knowledge of the Appellants and, as such, according to him, the Respondents, at the most, are entitled to the area as sold pursuant to the disputed Sale Deeds.

3. I have considered the submissions of the learned Counsel appearing for the Appellants and I have also gone through the records. The Judgments impugned in the above Appeal are essentially in the proceedings initiated by the Appellants to dispute the Sale Deeds which were executed in the year 1972. The learned Appellate Court has come to the conclusion that the Suit filed by the Appellants is barred by limitation. This finding of fact cannot be re-appreciated by this Court in the present Appeal as the learned Counsel appearing for the Appellant was unable to point out any perversity in such findings of the Courts below on that count. The learned Counsel appearing for the Appellant submits that there is a discrepancy in the area as shown in the Sale Deeds as against as disclosed in the survey records. This is a matter which cannot be examined in the present Appeal. Needless to say, the Courts have only examined the validity or otherwise of the disputed Sale Deeds. In case there is any allegation with regard to discrepancy in the area as contended by the Appellants, this is a matter which the Appellants have to agitate before the appropriate authority in accordance with law as these allegations were not part of the

averments nor raised by the Appellants in the proceedings, the question of examining the veracity of the disputed Sale Deeds, would not at all arise.

4. Subject to above, the Appeal stands rejected.

F. M. REIS, J.

msr