

*Sequeira*

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION*

***SECOND APPEAL NO. 247 OF 2015  
Along with  
CIVIL APPLICATION NO. 539 OF 2015***

Pralhad Ananda Ghatule. .. Appellant  
Vs  
Suresh Balwant Yelpale .. Respondent

Mr.Surel Shah a/w Swaroop Karade, for the Appellant / Applicant.

Mr.Ajay Joshi, for the Respondent.

***Coram : N.M.Jamdar, J.  
Date : 18 April 2017.***

***Oral Order :***

The Appellant has challenged the judgment and orders dated 14 May 2009, passed by the learned Civil Judge, Junior Division Sangola and the learned District Judge, Pandharpur on 31 January 2015.

2. The Respondent-Plaintiff filed a Suit bearing No.173 of 2003 for declaration and permanent injunction. The learned Civil Judge framed issues as to whether the Respondent-Plaintiff proved his title and whether the Appellant obstructed his possession and whether the Respondent-Plaintiff was entitled to injunction and declaration. The learned Civil Judge answered the issues in favour of Respondent-Plaintiff and decreed the Suit. The learned Civil Judge declared that

the Respondent-Plaintiff is the owner and the orders passed in Regular Civil Suit proceedings were not binding on the Respondent-Plaintiff. The Appeal filed by the Appellant bearing Civil Appeal No.65 of 2009 was dismissed on 31 January 2015.

3. Heard learned counsel for the parties.

4. As far as the deed in question is concerned, both the Courts have concurrently held that the same stands proved and that by virtue of the sale deed dated 9 November 1992, the Respondent-Plaintiff has become owner of the suit property. Nothing was placed on record by the Appellant to discredit the title of the Respondent. Having held that the Respondent-Plaintiff was owner of the suit property by virtue of the sale deed, both the Courts proceeded to declare that the mutation entries contrary to this position were not binding on the Respondent-Plaintiff. Both the Courts held that the Respondent-Plaintiff was in possession of the suit property and that relief of injunction was required to be granted in view of the actions of the Appellant. Both the Courts have assessed the evidence on record and have recorded the finding, which cannot be termed as perverse. No question of law arises. The Second Appeal is accordingly dismissed. Civil Application stands disposed of.

*(N.M.Jamdar, J.)*