

2 The Appellant's suit was in respect of the property described in her plaint under Sr.No.“क” in paragraph-1. This disputed property, described as “suit property” in the judgment and decree of the Trial Court, consists of land on the Western side behind the Appellant's house which houses a cattle shed of the dimension of 14 feet east-west length x 8 feet breadth and a gobar gas pit and chamber constructed in it. The Plaintiff was originally claiming title and possession in respect of this property. The Trial Court came to the conclusion that the sale deed, on the basis of which the Plaintiff claims her title and possession, pertains only to her house and not this open land and structure behind her house. The Trial Court, in the premises, dismissed the suit which *inter alia* had sought a permanent restraint on the Defendants from interfering with her possession over the suit property. The First Appellate Court confirmed this decree in the impugned judgment and order. The difficulty, however, arises due to the description of the “suit property” in the impugned judgment. The impugned judgment describes the 'suit property' as old Grampanchayat Property No.461 (new No.85) consisting of house admeasuring 16' x 20' in a dilapidated condition, and “*also having open land in front and back side of the house*”, total admeasuring 30 ft. east-west and 20 ft south-north at Village Shirdhon Jarewadi, Tal. Koregaon, Dist. Satara. It is this property which is described by the District Court as the “suit property”. Further discussion concerning the merits of the Plaintiff's case everywhere refers to this 'suit property'. In the course of its judgment, the learned District Judge holds that the Plaintiff has failed to prove either her title or her possession over the 'suit property', thereby giving an impression that the Plaintiff has failed to prove her title and possession not only over the disputed property, which is originally described as the suit property in the decree of the Trial

Court and in respect of which alone the present suit was filed, but also the house property bearing old Grampanchayat Property No.461 (new No.85). It is an admitted position that the suit did not pertain to this house property, but only to the property described above as disputed property and which description is to be found at Sr. No.“क” in paragraph-1 of the plaint.

2 It is accepted between learned Counsel for both parties that the second appeal can be disposed of by issuing a suitable clarification concerning the 'suit property'.

3 The second appeal, in the premises, is disposed of by clarifying that the suit property, over which the Plaintiff, according to the Courts below, has failed to prove her ownership and possession, is merely the open land on the western side behind the house bearing old Grampanchayat Property No.461 (new No.85 and the latest Number being 97/A), which consists of a cattle shed of 14 feet east-west x 8 feet and gobar gas pit and chamber constructed therein.

4 It is also agreed between both the parties that there is an alley of the breadth of about 1 ft. between the dilapidated walls of the Appellant's house and the disputed property on the western side. Learned Counsel for the Respondents, on instructions from his client who is present in Court, states that the Respondents shall not make any construction or encroach upon this alley at any time. The statement is accepted.

5 The second appeal is, accordingly, disposed of with the clarification as above. No order as to the costs.

6 In view of the disposal of the second appeal, the civil application does not survive and the same is disposed of as such.

(S.C. GUPTE, J.)