

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**  
**NAGPUR BENCH : NAGPUR**  
**Second Appeal No.190 of 2016**  
**[Arun Bhauraoji Pissar Vs. Narayan Ramaji Ronghe]**

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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Mr. S. D. Ingole, Adv., for the appellant.  
Mr. D. R. Bhoyar, Adv., for respondent.

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**CORAM : A. S. CHANDURKAR, J.**

**DATE : 30<sup>th</sup> June, 2017**

The appellant is the original plaintiff who had filed a suit for specific performance of agreement dated 19<sup>th</sup> March, 2006. It was alleged that by this agreement, the respondent had agreed to sell Class-II land admeasuring 2 hectares 41 Are for a consideration of Rs. 6,00,000-00. The trial Court held that the aforesaid agreement was not proved. The appellate Court re-affirmed the said finding and dismissed the appeal.

Shri Ingole, learned counsel for the appellant, submitted that the appellant was always ready and willing to perform his part of the contract. Earnest amount of Rs.50,000-00 was paid to the respondent. According to him, as the land was not converted to

Class-I, no date was mentioned for execution of the sale-deed. On 8<sup>th</sup> February, 2007, the respondent had been called upon to execute the sale-deed; but he remained absent. He, therefore, submitted that both the Courts erred in dismissing the suit for specific performance.

Perused the impugned judgments.

The trial Court on consideration of the evidence led by the parties found that the agreement at Exh.40 was silent with regard to the date when the sale-deed was to be executed. It further found that on Exh.40, there was a substantial gap between the signature of the defendant and the last line of contents of said agreement. On that count, the said agreement was doubted. The appellate Court found that on 8<sup>th</sup> February, 2007, the land continued to remain as Class-II land and it could not have been sold without necessary permission. It further noted that the date of the agreement was not mentioned therein and the stamp paper was shown to be purchased on 13<sup>th</sup> January, 2006.

The stand of the defendant that he was in need of money for the education of his son was held to be proved on the basis of the defendant's evidence.

Considering the findings recorded by both the Courts, it can be seen that the appellant had failed to prove that it was an Agreement of Sale. The various

circumstances taken into consideration by both the Courts indicate that this finding is based on preponderance of probabilities. I do not find that there is any perversity in these findings. No substantial question of law arises. Hence, the appeal is dismissed.

**Judge**

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