

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.236 of 2015
(Narsingh Mandir Deosthan, through its Trustee Shri Mahant Mahabirdas
Gurupurandasji Khaki v. Ashok s/o Gurudas Thakre and others)

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

Smt. Anjali Joshi, Advocate for Appellant.

Coram : R.K. Deshpande, J.
Date : 9th January, 2017

The Trial Court dismissed the suit for eviction and possession, and the lower Appellate Court has maintained the decision of the Trial Court by dismissing the appeal. The original plaintiff, which is a Trust, is before this Court in this second appeal.

The Courts below have accepted the stand of the defendants that they are the tenants in respect of the suit property. Smt. Joshi, the learned counsel for the appellant/plaintiff, submits that if the Courts below have found that the defendants are not the encroachers, then, in that event, they should not have proceeded to record the finding that the defendants are the tenants in respect of the suit property.

The finding of fact recorded by the Courts below that the

plaintiff has failed to establish that the defendants are the encroachers over the suit property, does not give rise to any substantial question of law, being a possible view of the matter. So far as the finding that the defendants are the tenants in respect of the suit property is concerned, it is open for the appellant/plaintiff to approach the appropriate forum by filing a suit for eviction and possession, and the finding recorded by the Courts below that they are the tenants in respect of the suit property will not come in the way of the parties.

The second appeal is dismissed.

Judge.

Lanjewar