

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

SECOND APPEAL NO.508 OF 2017

Kamla w/o Ramkrishna Sherki (dead) Thr. L.Rs. Iswar R. Sherki and ors.

-VS-

Madhukar s/o Rodbaji Tighare

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

Court's or Judge's Orders.

Shri S. D. Chande, Advocate for appellant.
Shri S. S. Sharma, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : September 13, 2017

The appellants are the legal heirs of original plaintiff No.2. The plaintiff No.2 and her mother had filed suit on 20/04/1988 for declaration that sale deed dated 09/09/1981 executed by the mother in favour of the respondent was null and void. According to the plaintiff this sale was got executed by exercising undue influence and by misrepresenting facts to the mother.

The trial Court held that the suit was barred by limitation on the ground that in earlier Civil Suit No.10/1992 filed by Kamlabai, she was aware of execution of this sale deed. It was found that even after the date of knowledge, the present suit was filed after three years. The appellate Court has confirmed this

finding.

After hearing Shri S. D. Chande, learned counsel for the appellants, Shri S. S. Sharma, learned counsel for the respondent and after going through the document at Exhibit-175, I find that the suit filed on 28/04/1988 was barred by limitation. The sale deed in question is dated 09/09/1981. In earlier civil suit filed by the plaintiff No.2 against her mother, she had sought amendment to the plaint and impleadment of the present defendant. In that application it was pleaded that her mother had executed the sale deed in favour of the defendant and this transaction was challenged. The record indicates that this application was filed in the year 1983. Hence, even if this date is taken as the date of knowledge of the sale deed, the present suit has been filed more than three years thereafter.

In view of aforesaid no fault can be found with the adjudication of by both the Courts.

The second appeal is dismissed. No costs.

JUDGE