

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

SECOND APPEAL NO.198 OF 2017

SMT. KAMALBAI WD/O YADAVRAO LODALIWAR
VS
GOPAL S/O RAJARAM YELNAWAR

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

Court's or Judge's orders

Ms. Deepali Sapkal, Advocate for the appellant.

CORAM : A.S. CHANDURKAR, J.
DATED : JULY 1, 2017.

This appeal is by the original plaintiff who is aggrieved by the judgment of the trial Court dismissing the suit for perpetual injunction seeking to restrain the defendant from disturbing her possession with regard to the suit property. It is the case of the plaintiff that her grandfather Rangayya in the year 1947 had executed a will in her favour and hence, after his death, the plaintiff became owner of the suit property. On that basis she sought a decree of perpetual injunction. According to the defendant, the suit house was allotted to the father of the said defendant – Rajaram in a partition. His name was mutated in the revenue records and, therefore, the plaintiff had no title over the suit house.

Before the trial Court, the plaintiff did not produce copy of the Will on the basis of which she was claiming ownership. The defendant filed partition deed at Exhibit-104 along with other documents to indicate his ownership over the same. Both the Courts found that the title of the plaintiff was not proved and that she was not in

possession of the suit property.

Considering the nature of evidence brought on record, it is clear that both the Courts were justified in not accepting the case of the plaintiff. The findings recorded are based on evidence on record and they do not give rise to any substantial question of law. The second appeal is dismissed. No costs.

JUDGE

/MULEY/