

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
SECOND APPEAL NO. 316/2015
Smt. Leelabai wd/o Harihar Bawankar and others

v.

Pramod Bhauraoji Gathe and ors

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

Court's or Judge's orders.

Shri R.N.Deshpande the learned counsel for the appellant

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 30, 2017

Heard Shri R.N.Deshpande the learned counsel for the appellant. The present second appeal is taken out against the concurrent findings recorded by both the Courts below.

According to the learned counsel for the appellant, the only issue involved in the present second appeal is whether the appellant is an agriculturist or not.

After hearing learned counsel for the appellant and after having perusal of the impugned judgment, it is clear that during the pendency of the suit the trial Court referred the said issue to the Tenancy Court and the Tenancy Court has recorded a specific findings that the present appellant is not an agriculturist. Further the appeal carried against the said order by the Tenancy Court is also dismissed by the Appellate Court under the Tenancy Laws. Though the submission is made that the Writ Petition is filed, the learned counsel has submitted that no stay is granted by the Writ Court.

The submission of the learned counsel for the appellant is that, the document filed on record in the civil

proceedings and pointed further that the father of present appellants are an agriculturist. It was incumbent on the part of the learned trial Court as well as the learned Appellate Court to hold that appellant is an agriculturist. The submissions are misplaced. Competent tenancy court has recorded specific findings that the present appellant is not an agriculturist. In view of the same, exception can not be taken to the impugned Judgments by both the Court below. No substantial question of law is involved in the present second appeal. Hence it is dismissed.

JUDGE

RSG