

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No.340 of 2017
[Pramod Angatrao Bankar Vs. Kush Kawalsingh Gurunamsingh
Anand & others]

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

Court's or Judge's orders

Mr. A. K. Waghmare, Adv., for the appellant.
Mr. Ritesh Badhe, Adv., for respondent nos. 1 to 3.

CORAM : A. S. CHANDURKAR, J.

DATE : 30th June, 2017

The appellant is the original plaintiff who is aggrieved by the dismissal of his suit for declaration of title along with prayer for permanent injunction.

It is the case of the plaintiff that he is residing in the suit house for almost fifty years. His uncle - Charandas executed a sale-deed on 31st December, 2012 in favour of the defendants and as said defendants were trying to dispossess the plaintiff, the aforesaid suit was filed. The defendants, in turn, filed a Cross-objection seeking possession on the basis of aforesaid sale-deed.

The trial Court found that the plaintiff had initially filed Special Civil Suit No. 324 of 2005 against his uncle - Charandas and others for partition and separate possession. These proceedings were, however,

dismissed. Subsequently, Charandas sold the suit property to the defendants. The sale-deed as set up by the defendants was not under challenge and the plaintiff merely sought declaration on the basis of his previous possession.

Considering the fact that the earlier proceedings initiated by the plaintiff against Charandas were not successful and said Charandas having sold the suit property to the defendants as per sale-deed at Exh.46, which sale-deed was admitted even by the plaintiff, I do not find that both the Courts committed any error in dismissing the suit. Similarly, the counter-claim has been rightly allowed accepting the title of Charandas. In the light of earlier adjudication between the plaintiff and Charandas, mere occupation of the suit premises by the plaintiff would not clothe him with any title.

No substantial question of law arises. The appeal is dismissed.

Judge