

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
SECOND APPEAL NO.513/2017

Suman wd/o Dinkarrao Gogarkar ..vs.. Gajanan s/o Ashok Patil & Ors.

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

Court's or Judge's orders.

Mr. A. V. Khare, Advocate for appellant.

CORAM : V.M. DESHPANDE, J.
DATED : NOVEMBER 9, 2017

Heard Mr. Khare, Advocate for the appellant, in extenso.

Present appeal is filed by the original plaintiff who has lost in both the courts below. Her suit for declaration and injunction is dismissed.

The respondent no.1 is neighbour of the appellant. The appellant purchased plot No.2058 admeasuring 110.58 Sq. Mtr. From one Bhaskar Wasudeo Joshi on 14.08.1984 vide sale deed Exh.-85. The predecessor in title of the appellant purchased this property from one Wasudeo Gadge. The sale deed is dated 21.03.1974 and it is at Exh.-55. As per this sale deed, the predecessor in title purchased the property admeasuring 86.06 Sq. Mtr. In that view of the matter, the appellate court has rightly observed that vendor of the appellant had only ownership over 86.06 Sq. Mtr. and house thereon and thereafter he was not having any right to sell more land.

Further, the Taluka Inspector Land Records was joined as defendant no.2 in the suit. The said authority filed the written statement. In his written statement also, it has been reiterated about the areas as mentioned supra.

According to the said authority, as per the measurement undertaken, the appellant was found in possession of 49.29 Sq. Mtr. area of plot No. 2058 and 32.50 Sq. Mtr. from city survey no.2059 and therefore nature of title on area 110.58 sq. mtr of plot No.62058 cannot be recorded. The appeal against the said was also disallowed by the Superintendent of Land Records.

Perusal of the impugned judgment shows that the Courts below have rightly negated the case of the appellant that by virtue of the sale deed dated 14.08.1984, the area of 110.58 Sq. Mtr. was purchased. Both the courts below have appreciated the evidence and the pleadings as brought on record in correct perspective. No error was found to be committed by them. The learned counsel for the appellant submitted that the Courts below committed error in consideration of the two sale deeds. It is clear that the predecessor in title of the appellant did not purchase the plot admeasuring 110.58 Sq. Mtr. from the vendor. Therefore, the submission in that behalf by the learned counsel is unacceptable.

The appeal involves no substantial question of law. The finding of facts recorded by the Courts below cannot be looked into in the appeal filed under Section 100 of the Code of Civil Procedure. The appeal is therefore rejected. No order as to costs.

JUDGE