

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**  
**NAGPUR BENCH : NAGPUR**  
**Second Appeal No. 486 of 2014**  
**[Sau. Meenakshi Rajaram Bothe Vs. Janardhan Bapuraoji Bothe & another]**

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

**Court's or Judge's orders**

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Mr. Dharaskar, Adv., holding for Mr. A. Parchure, Adv., for the appellant.  
 Mr. A.M. Sudame, Adv., for respondent nos. 1 and 2.

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**CORAM : A. S. CHANDURKAR, J.**

**DATE : 05th July, 2017**

The appellant is the original defendant no.1 in the suit filed by the respondent no.1 herein for possession of house property.

It is the case of the original plaintiff that in the year 1963, he was allotted a plot for residential purpose. The plaintiff constructed a house thereon and since 1965 was residing there. The defendant no.2 - his son was married in the year 1992 with the defendant no.1. On account of certain matrimonial disputes, proceedings for grant of divorce were initiated by the son. According to the plaintiff, on account of the conduct of defendant no.1, he was required to shift elsewhere for the purpose of residence. He, therefore, filed suit for possession of his self-acquired property.

The defendant no.1 claimed that she was residing in the suit property being the daughter-in-law of the plaintiff. It was denied that forcible possession was taken.

The trial Court recorded a finding that the plaintiff was the exclusive owner of the suit property and that it was his self-acquired property. It further held that the defendant no.1 could claim right only through her husband and not independently against the plaintiff. The suit was accordingly decreed. The appeal filed by defendant no.1 has been dismissed.

Shri Dharaskar, learned counsel for the appellant, submitted that the appellant being the daughter-in-law, she was entitled to reside in the suit premises, especially when she was not being maintained by her husband. He submitted that there is no evidence to show forcible eviction of the plaintiff and, therefore, the suit could not have been decreed.

Shri Sudame, learned counsel for the respondent no.1, supported the impugned judgment. According to him, the suit house being the self-acquired property of the original plaintiff, he was entitled for its possession. He relied upon the decision in **Bharati Rajesh Bhave Vs. Vijay Shankar Bhave & others** [2016 (1) Mh.L.J. 751] in that regard.

Having perused the impugned judgments, I do not find that both the Courts committed any error in holding that the plaintiff was entitled for possession. A finding of fact has been recorded that the suit house was the self-acquired property of the plaintiff. As observed in *Bharati Rajesh Bhave* [supra], the daughter-in-law cannot as of right claim entitlement of residence in the self-acquired property of her father-in-law. Proceedings filed by her against her husband are pending.

In that view of the matter, the Second Appeal does not give rise to any substantial question of law. The same is accordingly rejected.

The decree for possession shall be executed after a period four weeks from today.

**Judge**