

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

SA NO.575/2017

Sheikh Israil s/o Sheikh Ismail

..vs..

Namdeo s/o Marotrao Chamlate and ors

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

Court's or Judge's Order

Shri A.P. Chaware, Cousnel for the appellant.

CORAM : V.M. DESHPANDE, J.

DATED : OCTOBER 4, 2017.

1. Heard learned counsel Shri A.P. Chaware for the appellant.
2. The concurrent finding of facts are being assailed in this present second appeal.
3. Respondent Nos.2 to 4 are the original plaintiffs. They filed a suit against their husband and father/present respondent No.1 respectively, and the present appellant. The cause for filing the suit was since defendant No.1 executed a sale deed in favour of the present appellant and sold out the property though it was the property acquired after disposal of the joint family property.
4. Both the Courts below recorded a finding that respondent No.1/defendant No.1 Namdeo on earlier occasion disposed of his ancestral property and from the said sale

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proceeds, he purchased the suit property in question. Therefore, the reasoning given by learned Judge of the Courts below that the suit property is also having ancestral joint family property cannot be faulted with.

5. Further, it is established on record that respondent No.1/defendant No.1 is habituated to drinks and gambling. Therefore, it was for the appellant to demonstrate by cogent evidence that the property was sold out for legal necessity. On the appreciation of the facts, both the Court below have recorded a finding in negative against the appellant.

6. No substantial question of law arises out the impugned judgment. Hence, the second appeal is dismissed.

JUDGE

!! BRW !!

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