

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

Second Appeal No.19 of 2016
(Shri Ashok s/o Pandurang Bhusari and another v. Sau. Geetabai w/o Anil
Pidurkar and others)

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

Shri Raju Dhoble, Advocate for Appellants.
Shri S.A. Sahu, Advocate, holding for Shri M.I. Dhatrak, Advocate
for Respondent No.3.

Coram : R.K. Deshpande, J.
Date : 14th February, 2017

The Trial Court passed a decree granting a declaration that the sale-deed dated 5-1-1991 executed by the defendant No.2-Pundlik s/o Shankarrao Satpute in favour of the defendant No.1-Sau. Gitabai w/o Anil Pidurkar and registered at serial No.15 (Chha) at page Nos.231 to 236 of volume No.245, is null and void in respect of the excess area to the extent of 68.4 square meters mentioned in the sale-deed and the map. Rest of the reliefs claimed by the plaintiffs were refused. The lower Appellate Court has allowed Regular Civil Appeal No.19 of 2015 by setting aside the decision of the Trial Court on 13-8-2015. Hence, the original plaintiffs are before this Court in this second appeal.

The Courts below have found that the plaintiffs have

failed to established ownership over 68.4 square meters of land out of Plot No.1239, belonging to them. The defendant No.2 is the owner of Gat No.1240, and he executed the registered sale-deed dated 5-1-1991 in favour of the defendant No.1 in respect of 140 square meters of land. The Courts below have found that Plot No.1240 consists of only 72 square meters of land, and hence the transfer of 68.4 square meters of land in favour of the defendant No.1 was null and void.

Once the plaintiffs fail to establish ownership over 68.4 squares meters of land in plot No.1239 and the Courts below having refused to grant a decree for permanent injunction restraining the defendants from interfering with the possession of the plaintiffs over the suit property, the question of passing a decree to declare the sale-deed to be null and void, does not at all arise.

No substantial question of law arises for consideration in respect of the challenge to the sale-deed dated 5-1-1991.

The second appeal is dismissed.

Judge.