

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****SECOND APPEAL NO.582/2017**

Wasudeo Bhagwan Chopade (Dead) thr. Smt. Narmadabai Wasudeo
Chopade & Ors. ..vs.. Manohar Totaram Nayase

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

Court's or Judge's orders.

Mr. B. Dafle, Advocate holding for Mr. P.B.Patil, Advocate for
appellants.

Mr. P. B. Patil, Advocate for appellants.

CORAM : V.M. DESHPANDE, J.

DATED : OCTOBER 6, 2017

1. Heard Mr. Dafle, Advocate holding for Mr.Patil,
learned counsel for appellants. Counsel for the respondent
is absent though served.

2. The present second appeal is filed against the
judgment and decree dated 11.07.2016 passed by District
Judge-I Link Court, Malkapur in Regular Civil Appeal No.
115/2012. The said appeal was dismissed by the learned
appellate Court thereby confirming the judgment and
decree dated 27.02.2009 passed in Regular Civil Suit No.
15/2005 by Civil Judge Junior Division, Nandura.

3. The suit for declaration and permanent
injunction was filed by the respondent against the
appellants. According to the plaintiff, the defendants are
causing obstruction in the house and enjoyment of the
roads and are trying to make encroachment over the

same. The suit was decreed. By the judgment and decree, the learned Judge of the trial Court declared that the plaintiff is the owner and possessor of the suit house and the defendants being no right to cause obstruction to his way running towards West-East of his house. The defendants were also directed to remove fencing placed on the Eastern road. Being aggrieved thereby, the appeal was filed. The appellate Court, after giving opportunity of hearing to the appellants, found that the original plaintiff has established that there exists a road towards East of his house. The learned appellate Court, after appreciating the evidence of the plaintiff's witnesses and also the evidence of the defendant, found that there is no reason to interfere with the finding recorded by the learned trial Court. Consequently, the appeal was also dismissed.

4. After hearing the learned counsel for the appellants and after perusal of the evidence and the impugned judgment, it is clear that the present appeal does not involve any substantial question of law. The findings are in respect of the facts, which in my view are correctly recorded by both the Courts below. There is no perversity in the findings recorded by both the Courts below. The appeal is therefore rejected. No order as to costs.

JUDGE