

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

SECOND APPEAL NO.154 OF 2017

Indubai wd/o Vinod Pohokar

... Appellant.

-vs-

Sureshsingh s/o Bhagwansingh Baghele
and ors.

... Respondents

Shri Anand Deshpande, Advocate for appellant.
Shri R. G. Kavimandan, Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 22, 2017

P.C.

The appellant is the original plaintiff who has filed suit for declaration that the sale deed executed by her late husband was not on account of legal necessity. Further prayer for possession was also made. The trial Court dismissed the said suit and said decree has been confirmed by the appellate Court.

2. According to the plaintiff in a earlier suit for partition and separate possession, suit property was allotted to the share of plaintiff's husband Vinod. It is the case of the plaintiff that said Vinod did not have any source of income and use to incur debts for meeting his needs.

As it was found that the defendants were in possession without any legal right, plaintiff issued notice and then filed a suit for possession.

3. According to defendants the suit property was purchased by them from Vinod on 25/04/1994 for valuable consideration. This sale was never challenged during the life time of Vinod.

4. It has been found by both the Courts that the plaintiff could not lead specific evidence in support of her stand that the sale was executed by Vinod on account of his vices. It was further found that during his life time Vinod never challenged the sale deed. The sale was being challenged after almost ten years. Though it was submitted by Shri Deshpande, learned counsel for the appellant that the evidence in that regard was not properly appreciated, on perusal of the impugned judgments I find that whatever evidence that was led by the plaintiff has been duly considered and hence relief came to be refused to her. It cannot be said that this appreciation of evidence is perverse. The second appeal therefore does not give rise to any substantial question of law. It is therefore dismissed. No costs.

JUDGE