

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 532 OF 2015
WITH
CIVIL APPLICATION NO. 343 OF 2017

Shankar Bapu Patil (Through POA) Mangal
Sampat Pawar ...Appellant
Versus
Meena Vasant Dinde & Ors ...Respondents

Mr. Manoj A. Patil, for the Appellant.
Mr. Chetan G. Patil, for Respondent No.1.
Ms. Meena V. Dinde, Respondent No.1 present.

CORAM: N. M. JAMDAR, J
DATED: 24 JANUARY, 2018

PC:-

1. Heard the learned Counsel for the parties.
2. The Appellant has challenged the judgment and order passed by the learned Ad-hoc District Judge, Kolhapur allowing the Appeal filed by Respondent no.1 – the obstructionist.
3. The matter has been adjourned from time to time for the purpose of settlement. In the morning session, the learned Counsel for the Appellant, on instructions, had made a

statement that the Appellant is ready to recognize the right of Respondent no.1 in respect of two rooms. The matter was kept back till the afternoon session. The learned Counsel for the Appellant states that the Appellant has now affirmed an Affidavit. The learned Counsel for the Appellant tenders the Affidavit and states that the Appellant is present in the Court. The Affidavit is taken on record.

4. In the Affidavit, the Appellant has stated as under:

*“I, **Sou. Mangal Sampat Powar** Age: -50 years, Occ.: Household, Indian Inhabitant, residing at House No. 593, Jai Bhavani Galli, Kasba Bawada, Kolhapur, being Appellant hereinabove do hereby state on solemn affirmation as under:-*

1) I say that the above second appeal has been filed in respect of the subject suit properties i.e. 2 rooms 1] 1 Room area admeasuring 13’x 8’ sq.ft. & 2] 1 Room area admeasuring 8’x 6’ sq.ft. situated at City Survey No. 2626 B [having total area admeasuring 60.2 sq.mts.], “D” Ward, at Kolhapur.

2) I say that the entire subject property of City Survey No. 2626 B [having total area admeasuring 60.2 sq.mts.], “D” Ward, at Kolhapur, was owned by the Late. Bapu Ganpati Patil, who was having 2 sons namely Late. Shankar Patil and Late. Dinkar Patil and was having 2 daughters namely Late. Chandrabhaga Dagdoba Chavan & Late. Shevanta Govind Ghorpade. I say that the Appellant and the

Respondents No. 2 to 7 are the legal heirs of the said parties. The Respondent No. 8 is the husband of the Respondent No. 1/original obstructionist.

3) I say that the predecessor of the Appellant and the Respondents No. 2 to 6 were the Decree Holders of the proceedings of Regular Civil Suit No. 182/1988. Based on the said decree, the predecessor of the Appellant and Respondents No. 2 to 6, and filed Regular Darkhast No. 130/2007. I say that after the demise of the original decree holders, the Appellant and Respondents No. 2 to 6 impleaded as legal heirs of the Decree Holders in Regular Darkhast No. 130/2007.

4) I say that Respondent No. 1/Orig. obstructionist purchased the said 2 rooms only i.e. subject properties, i.e. 1 Room area admeasuring 13'x 8' sq.fts. & 1 Room area admeasuring 8'x 6' sq.fts. situated at City Survey No. 2626 B, [out of the total area admeasuring 60.2 sq.mts.], "D" Ward, at Kolhapur by way of registered sale deed dt. 17/3/1987 from the Late. Dinkar Bapu Patil. I hereby confirmed the right, title and interest of Respondent No. 1/original obstructionist in respect of the 2 rooms only as mentioned above and in which the Respondent No. 1/original obstructionist was/is residing on the basis of the sale deed dt. 17/3/1987.

5) I say that I hereby agree and undertakes to this Hon'ble Court that I shall not in any manner disturb to the peaceful possession, occupation and enjoyment of the subject suit properties i.e. 2 rooms 1 Room area admeasuring 13'x 8' sq.fts. and 1 Room area admeasuring 8'x 6' sq.fts. situated at City Survey No. 2626 B [having total

area admeasuring 60.2 sq.mts.], “which are owned by the Respondent No. 1, based on the sale deed dated 17/03/1987.

6) I therefore prays to this Hon’ble Court to dispose of the above Second Appeal pursuant to the present affidavit/undertaking filed by the present Appellant in this Hon’ble Court.”

5. The learned Counsel for the Respondent has no objection in respect of the above stand taken by the Appellant on Affidavit.

6. The statements made on Affidavit by the Appellant are accepted.

7. In these circumstances, the learned Counsel for the parties agree that nothing further survives in the Second Appeal. Second Appeal is disposed of.

8. In view of disposal of the Appeal, the Civil Application does not survive and is disposed of accordingly.

[N. M. JAMDAR, J.]