

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

*SECOND APPEAL NO.684 OF 2016
WITH
CIVIL APPLICATION NO.1361 OF 2016
IN
SECOND APPEAL NO.684 OF 2016*

Sanganna Gangaram Kamble ..Appellant.

V/s.

Tangavva Gangaram Kamble ..Respondent.

Mr.Pramod B. Kulkarni for the Appellant.

CORAM : N.M. Jamdar, J.

DATED : 9 January , 2018.

ORAL ORDER

. By this second appeal, the Appellant has challenged the concurrent Judgments and Orders passed by the learned Civil Judge Junior Division, Solapur and the learned District Judge, Solapur, decreeing the suit filed by Respondent-Plaintiff for partition and separate possession in the suit property, and dismissing the appeal.

2. The Respondent-Plaintiff filed Regular Civil Suit No.503 of 2010 seeking 1/2 share in the suit property-Gat no.6

situated at village Velagaon, District Solapur. According to the Respondent-Plaintiff, after the first wife of Gangaram Kamble expired, she married Gangaram in the year 1976 and thereafter the Respondent-Plaintiff looked after the Defendant-Appellant, yet she was denied share in the suit property. The Appellant-Defendant resisted the suit contending that the Respondent-Plaintiff was not legally married to Gangaram. Both the Courts negated this stand of the Appellant.

3. The learned counsel for the Appellant-Defendant submitted that there was no cogent evidence produced by the Respondent-Plaintiff that she was married and she has given various admission in the cross examination.

4. This rather unfortunate that the Appellant has chosen to level such allegations. The Respondent-Plaintiff, when the suit was instituted, was 65 years old. The Appellant was calling upon the Respondent to produce the evidence regarding validity of her marriage that had taken place twenty four years ago.

5. The learned Civil Judge, found that the name of the Respondent appeared alongwith deceased Gangaram Kamble in the election card as well as ration card. The Respondent/Plaintiff examined two witnesses i.e. PW-2 Laxmi and herself. PW-2 is the relative of deceased Gangaram Kamble. PW-2 deposed that she had

attended the marriage. Her defence was sought to be assailed on the ground that she was a minor at the time of marriage, which the both the courts rightly negatived, as being irrelevant. After assessment of the oral and documentary evidence a concurrent finding is recorded that the Respondent is legally wedded wife of deceased Gagaram Kamble. The arguments advanced by the learned counsel for the Appellant are calling upon this Court to reassess evidence to taking another view on facts. It is not possible to do so under section 100 of the Civil Procedure Code, 1908. No question of law arises in the second appeal. Second Appeal is accordingly dismissed.

6. Civil application stands dismissed.

(N.M. Jamdar, J.)