

Sequeira

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

SECOND APPEAL NO. 882 OF 2016

Ms.Vahida Rafik Shaikh

.. Appellant

Vs

Ms.Hasina Musa Jamadar.

.. Respondent

Mr.Surel S.Shah a/w Ms.Gauri Shah, for the Appellant.

Mr.Prasad Kulkarni, for the Respondent.

Coram : N.M.Jamdar, J.

Date : 15 January 2018.

Oral Order :

The Appellant has challenged the Judgment and Order passed by the learned Civil Judge, Junior Division, Solapur and learned District Judge, Solapur dated 28 June 2014 and 7 March 2016 allowing the suit filed by the Respondent for possession and dismissing the appeal filed by the Appellant.

2. The Respondent / Plaintiff, sister in-law of the Appellant filed suit bearing No.17 of 2010 for possession of the suit room admeasuring 10 x 10 feet. According to Respondent-Plaintiff, she had become owner by virtue of registered gift deed dated 20 May

2009 executed by her mother in-law in her favour. Both the Courts framed issues as regards the validity of the registered gift deed and held the same in favour of Respondent-Plaintiff.

3. It was the contention of the Appellant in both the Courts that the Appellant was residing in the suit property prior to the gift deed and therefore the deed was not legal. In the trial Court the Appellant failed to produce any documentary evidence in that regard. In Appeal an undertaking was given that documents will be produced. In spite of the undertaking, the documents were not produced. In the circumstances, the learned District Judge rightly held that the Appellant was not residing in the suit premises prior to the gift deed. It appears that the Appellant was only permitted to stay by the Respondent, her sister in-law.

4. The gift deed is in favour of the Respondent, and is held to be valid. Nothing is shown as to why this finding is incorrect. There is no error in the finding of both the Courts. No substantial question of law is involved. Second Appeal is dismissed.

(N.M.Jamdar, J.)