

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL No. 571 OF 2018
WITH
CIVIL APPLICATION No. 1328 OF 2018

Bharat Maruti Chavan & Ors. ... Appellants
Vs.
Suhas Arun Malve & Ors. ... Respondents

Mr. S. S. Patwardhan, for the Appellants.

Mr. S. P. Rajepandhare, for the Respondent Nos. 1 to 3.

CORAM : A. M. DHAVALA, J.
DATE : OCTOBER 3, 2018

PC :-

1. Heard the learned advocate for the Appellants and the learned advocate for Respondent Nos. 1 to 3. In Regular Civil Suit No. 28 of 2015 learned Civil judge, Jr. Division, Pandharpur and in Civil Appeal No. 10 of 2017 arising therefrom learned Extra Joint Additional District Judge, Pandharpur have given concurrent finding that the plaintiffs (respondents herein) are in possession of the suit agriculture lands and the order of perpetual injunction passed by the trial

court has been confirmed by the first appellate court. Therefore, defendants have come in the second appeal. From the arguments advanced it appears that defendant Nos. 1 and 2 were previous owners of lands. On 1.2.2002 they executed sale-deed in favour of Vitthal Bagal and Abhiman Bagal, who in turn executed sale-deed of the same land in favour Bhimrao Gadhave, and said Gadhave executed sale-deed in favour of the plaintiffs. According to the Appellants, sale-deed executed by them was nominal sale-deed. But the registered sale-deed has a presumptive value about the correctness of the contents. Said sale-deed was not challenged for more than 12 years. The case that the said sale-deed was nominal was given up by the Appellants and the suit for specific performance of reconveyance was filed. It was also withdrawn. The chances of proving the case of right to reconvey are also lost.

2. As far as possession is concerned, apart from concurrent finding, there are 7-12 extracts in favour of the plaintiffs. There is no documentary evidence or any significant

oral evidence to rebut the presumption under S. 157 of the Land Revenue Code. The findings regarding possession are finding of fact. No perversity is noticed. There is no argument about consideration of irrelevant material or ignorance of any admissible evidence. No substantial question of law is involved. Considering the facts, there is no scope for interference. Hence, the second appeal is dismissed in *limine*.

3. Any civil application pending in the second appeal does not survive and is accordingly disposed of.

Sd/-
[A. M. DHAVAL, J.]

Vinayak Halemath