

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

SECOND APPEAL NO.48 OF 2017

Shaikh Mustafa Shaikh Ali Hussain, Khamgaon, Buldana

-vs-

Vijay Laxman Tayade and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. B Bhise, Advocate for appellant.

Shri H. R. Gadhia, Advocate for respondent No.1.

CORAM : A.S.CHANDURKAR, J.

DATE : June 04, 2018

The appellant is the original plaintiff who had filed suit for declaration that he was the owner of Gat No.111 admeasuring 1H 66R. According to the plaintiff, in the year 1990 he was in need of an amount of Rs.6,000/- which he had borrowed from one Balkrushna Thorat. He executed a nominal sale-deed on 16/04/1990 in favour of said Balkrushna Thorat. According to the plaintiff in the year 1991 the entire amount borrowed was repaid and hence the suit property was reconveyed in favour of the plaintiff's brother. The defendant No.1 however on the basis of mutation entries dispossessed the plaintiff giving rise to the filing of the suit.

It has been found by both the Courts that the plaintiff failed to prove that the sale-deed dated 16/04/1990 in favour of Balkrushna Thorat was nominal in nature. The manner in which the amount said to be borrowed was repaid by the plaintiff had not been indicated. The revenue records from the year 2000-2001 indicated possession of defendant No.1. In the light of this evidence on record the trial Court dismissed the suit filed by the appellant herein and that decree has been confirmed by the appellate Court.

Considering the findings of fact recorded by both the Courts which findings are based on the evidence available on record, it cannot be said that there is any perversity in the impugned judgment of the appellate Court. The Second Appeal does not give rise to any substantial question of law. The same is therefore dismissed with no order as to costs.

JUDGE