

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No. 30 of 2018
[Santosh Dadaji Chamate Vs. Nirmala Dadaji Chamate & others]

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

Court's or Judge's orders

Mr. A. A. Dhawas, Adv., for the appellant.
Mr. Tejas Deshpande, Adv., for respondent nos. 1,3 and 4.

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CORAM : A. S. CHANDURKAR, J.

DATE : 19th January, 2018

The defendant no.1 who is aggrieved by the decree for partition and separate possession passed by the trial Court and confirmed by the first appellate Court has filed the present Second Appeal.

According to the appellant, Gat No. 112 which is one of the suit properties was purchased by him exclusively on 8th February, 1990. Copy of that sale-deed, however, was placed on record at the fag end of the trial. Both the Courts after considering the evidence on record, however, decreed the suit in its entirety.

Shri A. A. Dhawas, learned counsel for the appellant, submitted that the aforesaid sale-deed being

a registered document and the appellant being shown as the owner of that property, it ought to have been held that said property was purchased from the income of the appellant. The oral evidence in that regard was already on record and it could be seen that the appellant by doing petty work and having received various amounts earlier was capable of purchasing the suit field. It was submitted that both the Courts, therefore, committed an error by ignoring the aforesaid sale-deed.

Shri Tejas Deshpande, learned counsel for the respondent nos. 1,3 and 4, supported the impugned judgments. According to him, the evidence of the appellant as well as his admissions were sufficient to discard his case that Gat No. 112 was exclusively purchased by the defendant no.1. Said defendant no.1 was aged only nineteen years when the field was purchased. It was, thus, submitted that the findings recorded by both the Courts on this aspect were legal and correct.

After hearing respective counsel, I find that the appellant in his deposition admitted that he was aged only nineteen years and was taking education when the property worth Rs.34,500/- was purchased. There were no pleadings with regard to the source of income. Considering his entire deposition, it cannot be said that both the Courts recorded a perverse finding that Gat No. 112 was also a joint family property. I find the

appreciation of evidence to be proper and not giving rise to any substantial question of law. Hence, the Second Appeal stands dismissed with no order as to costs.

Judge

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