

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No. 276 of 2015
[Sau. Shashibai Devkisanji Mundhada Vs. Sunil Pundlikrao Gaoner]

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

Court's or Judge's orders

Mr N. R. Saboo, Adv., for the appellant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 09th February, 2018

The objector in execution proceedings that were filed pursuant to the decree for specific performance passed by the trial Court and confirmed by the appellate Court has filed the present Second Appeal.

The respondent herein had filed Regular Civil Suit No. 605 of 1994 seeking specific performance of agreement dated 17th January, 1994 against one Sadashiv Arjune. That suit was decreed on 13th November, 1995 and said Sadashiv Arjune was directed to execute a sale-deed in favour of the respondent. This decree was confirmed by the appellate Court on 10th September, 1999. Ten days thereafter, the appellant purchased the suit field from the original defendant - Sadashiv Arjune. In the execution proceedings, the appellant filed an objection under provisions of Order-XXI, Rule 97 of the Civil Procedure Code, 1908. According to the objector, the lis was not registered and

that she was a bona fide purchaser of the suit property. The executing Court found that the appellant was not a bona fide purchase and the transaction was hit by the principles of *lis pendense*. The appellate Court confirmed the said order.

After hearing Shri N. R. Saboo, learned counsel for the appellant, I do not find that both the Courts committed any error in turning down the objection raised by the appellant. The decree for specific performance was passed by the trial Court on 13th November, 1995 and the appellate Court confirmed the same on 10th September, 1999. The purchase of the suit property by the appellant is thereafter on 20th October, 1999. The appellate Court has rightly taken into consideration the observations of the Hon'ble Supreme Court in **Guruswamy Vs. P. Lakshim** [Civil Appeal No. 6764 of 2001; decided on 1st May, 2008] while holding against the appellant. I find that both the Courts have correctly applied the law applicable. Hence, the appeal does not give rise to any substantial question of law. The same is, therefore, dismissed. No costs.

Judge