

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No.297 of 2017
[Sharadkumar Mahadeorao Khumkar Vs. Shaligram Shivram
Wankhede (dead) through L.Rs & others]

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

Court's or Judge's orders

Mr. R. J. Shinde, Adv., for the appellant.
Mr. C. S. Bhate, Adv., for respondent nos. 1,2 and 4.

CORAM : A. S. CHANDURKAR, J.

DATE : 23rd February, 2018

The appellant is the original plaintiff who is aggrieved by dismissal of his suit seeking possession of 0.33 Gunthas land on the count that possession of the same was taken illegally by the defendant. According to the plaintiff, on 7th June, 1984 he agreed to sell land admeasuring 5 acres 20 Gunthas to the defendant for a consideration of Rs. 20,000/-. On the defendant making said payment, he was put in possession of 5 acres 20 Gunthas land. According to the plaintiff, possession of excess 33 Gunthas land was taken. The trial Court held that there was no evidence brought on record by the plaintiff to indicate that the defendant was in possession of excess land. Except the oral testimony, there was no other evidence on record. The relief was, therefore, refused by the trial Court. The appellate Court on the same ground dismissed the appeal.

After hearing the learned counsel for the parties and after perusing the impugned judgments, I find that the conclusion recorded by both the Courts cannot be faulted with. There is no evidence on record brought by the plaintiff to indicate that the defendant was in possession of excess land to the extent of 33 Gunthas from the land which was agreed to be sold. No substantial question of law arises for consideration. Second Appeal is, therefore, dismissed. No costs.

Judge