

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 167 OF 2019
WITH
CIVIL APPLICATION NO. 126 OF 2018**

Sadashiv Shankar Pore and others ... Appellants
Versus

Hanmant Digambar Pandit
deceased hence through LR's

1.1 Shashikala Hanmant Pandit and others ... Respondents

.....

Mr. A.M. Kulkarni for the Appellants.

Mr. Rahul S. Kate for Respondent Nos. 1.1 and 1.2.

.....

CORAM : SANDEEP K. SHINDE, J.

DATE : 21st FEBRUARY, 2019.

P. C.:

1. This appeal is preferred by the appellants whose application under Order 21 Rule 97 of the Code of Civil Procedure, 1908, was dismissed by order dated 29th April, 2014 below Exhibit-87 in Regular Darkhast No.2 of 1984.

2. Aggrieved by order dated 29th April, 2014, Regular Civil Appeal No.105 of 2014 was preferred. The said appeal was dismissed on 6th December, 2017 by learned District Judge-3, Sangli. It is against the decree passed in Regular Civil Appeal No.105 of 2014, this appeal is preferred.

3. Heard learned Counsel for the parties.

4. Both the Courts below have rendered essentially finding of fact, which is consistent with the evidence on record. Respondent No.1 is the decree holder, whereas respondent Nos. 2 and 3 are the judgment debtors in the suit for specific performance filed by Hanmant Digambar Pandit. In the said suit decree of specific performance was granted and the finding is recorded that the suit lands was the self acquired property of Shankar and Uttam. This finding was confirmed throughout and in execution of decree registered sale-deed was executed through Court Commissioner in favour of Hanmant Digambar Pandit.

5. The obstructionists are claiming through the judgment debtors i.e. Shankar and Uttam. The appellants could not establish their independent rights but were claiming through their predecessors in title i.e. Shankar and Uttam. It appears, the subject property was held as self acquired property of Shankar and Uttam, not only in the suit filed by respondent No.1, but in another suit filed by the mother of Shankar.

6. Thus, in my view, the appeal does not give rise to any substantial question of law. The appeal is therefore dismissed. Civil application does not survive and it is disposed of.

(SANDEEP K. SHINDE, J.)