

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

SECOND APPEAL NO. 829 OF 2016

Vilas Pandurang Kadam

... Appellant

Vs

Vasantrao Shamrao Jambhale

... Respondent

Adv. Sangramsinh Yadav for the Appellant.

CORAM : SANDEEP K. SHINDE J.

DATE : APRIL 23rd, 2019

P.C. :

1. Heard learned counsel for the appellant.
2. By this appeal, the plaintiff has challenged the Judgment and decree dated 29.01.2016 passed by Ad-Hoc District Judge-1 at Kolhapur in Regular Civil Appeal No. 252 of 2019.
3. I shall refer the parties by their status in the suit. The appellant as plaintiff instituted the suit, for specific performance of contract dated 13.06.1985. The agreed consideration under the contract was Rs. 36,000/-. That Rs. 29,000/- was paid and the balance Rs. 7,000/- was payable at the time of executing sale deed. In terms of the suit

agreement, the sale deed is to be executed either in the name of the plaintiff or his nominees. Evidence on record shows that the sale deed in respect of the suit land was executed on 29.08.1985, to which the plaintiff was confirming party.

4. I have perused the suit agreement as well as sale deed dated 29.08.1985. It shows the sale deed has been executed in the name of nominees of the plaintiff in terms of suit agreement. In spite of this fact, the plaintiff had filed the suit in November, 2005 i.e. almost 17 years after the execution of the suit agreement. The Appellate Court has thus rightly dismissed the suit, against which this appeal is preferred.

5. The plaintiff is an advocate by profession who has filed the suit 17 years after the execution of the suit agreement. As stated herein-above, the defendant had executed the sale deed and registered it in the name of nominees of the plaintiff to which present plaintiff was one of the parties. In fact, there was no occasion for the plaintiff to file the suit, in the year 2005, in as much as no cause of action arose of any sought in his favour.

6. Taking into consideration the facts of the case, in my view, the suit instituted by the plaintiff, who is an advocate by profession is nothing but abuse of process of law. The appeal is therefore dismissed with cost of Rs. 25,000/- (Rs. Twenty Five Thousand), which plaintiff shall pay to the defendant within one month from today.

7. Place the appeal for compliance on 25.06.2019.

(SANDEEP K. SHINDE, J.)