

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

***SECOND APPEAL NO.226 OF 2019  
WITH  
CIVIL APPLICATION NO.312 OF 2019***

Laxman Dinkar Deshmukh

Since deceased, through his legal  
heirs

1) Tukaram Laxman Deshmukh  
& Ors.

... Appellants

Vs

Sarjerao Pandurang Deshmukh

... Respondent

...

Mr. Ajay A. Joshi for the Appellants.

***CORAM : SANDEEP K. SHINDE J.  
DATE : APRIL 5, 2019***

***P.C. :***

By this appeal, appellants/original defendants, have challenged the judgment and decree in Regular Civil Appeal No.57 of 2007 passed by the District Judge-II, Pandharpur which was arising out of the decree for specific performance made in Regular Civil Suit No.83 of 2000, instituted by the respondent-plaintiff.

2 Both the Courts have rendered finding on fact in issue, that the plaintiff has proved that the defendants/appellants had agreed to sell the suit land to him on 26<sup>th</sup> May, 2000 for consideration of Rs.1,05,000/-. Both the Courts held that the plaintiff has proved execution of the suit agreement and consideration of Rs.1,00,000/- deposited by him in the bank account of the defendant no.1 and his wife. The learned Judge has answered all the issues including, readiness and willingness to perform his part of contract in favour of the plaintiff.

3 Plaintiff had examined five witnesses; one is scribe of the suit agreement who would state that he drafted suit agreement as desired by the defendant. Eventually stamp-paper was also purchased by the defendant. Two independent witnesses, i.e, P.W.3 and P.W.4 would state that they were present at the time of negotiations, between the plaintiff and the defendant. Besides, bank manager, who was examined as plaintiff's witness stated that, new bank account was opened in the name of the defendant no.1 and his wife and Rs.1 lakh were deposited in the said account.

4           As against the evidence discussed hereinabove though the defendants would contend that suit agreement was obtained on misrepresentation, he did not lead evidence to establish his defence nor pleaded better particulars as required under Order 6 Rule 4 of the Code of Civil Procedure, 1908.

5           Thus, both the Courts below have rendered finding of fact consistent with the evidence on record.

6           Appeal, therefore, does not give rise to any substantial question of law. Appeal is dismissed. Civil application is disposed of.

**(SANDEEP K. SHINDE, J.)**