

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.368 OF 2017

ALONGWITH

CIVIL APPLICATION NO. 1982 OF 2015

IN

SECOND APPEAL NO. 368 OF 2017

Sau. Sunanda Narayan Gaikwad

....Appellant
(Orig. Plaintiff)

V/s.

Sau. Jyoti Dilip Jadhav

....Respondent
(Orig. Defendant)

* * * *

Mr. Sanjay Ghaisas, Advocate for the appellant.

Mr. Pratik Balasaheb Rahade, Advocate for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 23rd January, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. The appellant is the plaintiff who had sold the suit property to the defendant i.e. House no.11 vide

registered sale-deed dated 20th October, 1999. In the year March, 2004 he had filed Regular Civil Suit No. 23 of 2004 seeking cancellation of the sale deed, perpetual injunction and declaration of title. The suit was dismissed by the learned Civil Judge Junior Division and the decree of the trial Court was confirmed by the Appellate court in Civil Appeal No. 156 of 2009, by judgment and order dated 22nd January, 2015. It is against the decree passed by the Appellate Court, the plaintiff has preferred this Second Appeal. The document is a registered sale deed vide which the suit property was sold by the plaintiff to the defendant in the year October, 1999. Section 92 of the Evidence Act does not permit the party to adduce oral evidence or contradicting, varying, adding to, or subtracting from terms of the document. It is the plaintiff's case, that he never intended to sell entire house no.11 but only part of it. Both the Courts below upon appreciating the evidence declined to accept the contention. The finding of facts, recorded by the Courts below is consistent with the evidence on record. No perversity in finding has been pointed out. In view of the

facts aforesaid, the Appeal does not give rise to any substantial question of law. The Appeal is dismissed.

3. In view of dismissal of Appeal, Civil Application No. 1982 of 2015 does not survive. The same also stands disposed of.

(SANDEEP K. SHINDE, J)