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

SECOND APPEAL NO. 469 OF 2010

Mukhtar A. Bharmar ..Appellant
vs.
Premlata Shantilal Jain & ors. ..Respondents
....
Shri Amol Mhatre for appellant.

....

CORAM : M.S.KARNIK, J.

DATE : 17th JULY, 2019

P.C. :

The appellant appeared in person and stated that he is not in a position to engage an advocate. I therefore requested Shri Amol Mhatre to appear on behalf of the appellant and assist this Court. Shri Mhatre graciously accepted the request and has made submissions in support of the appellant's case.

2 The appellant is the original plaintiff. It is the case of the appellant that he sold two shops by agreement dated 3/12/1990 for a consideration of Rs.1,20,000/-. It is his case that one of the condition on which the shop was sold to

defendant No.1 is that he should not further sell the suit shop without permission of the plaintiff and that he should not carry out unauthorised or illegal alterations in the said shops. It is the contention of the plaintiff that defendant No.1 sold out the suit shop to defendant No.3 by registered deed dated 14/7/1999 without plaintiff's permission which is illegal. Moreover, respondent No.1 has carried out illegal alterations in the suit shops contrary to the terms of the agreement. The Appellate Court has found that Article 'A' and Exhibit 85 are type written. The contents of these two documents are identical except the portion that in case the respondent No.1 wanted to sell the suit shop it should be with permission of the appellant. It is matter of record that this particular portion is not in Exhibit 85.

3. The Appellate Court was of the opinion that this particular portion “that in case respondent No.1 wanted to sell the suit shop it should be with permission of the appellant” appears to have been added subsequently.

4. As the appellant has admitted his signature on each page of Exhibit 85 and execution of the document is proved the sale with defendant No.1 is completed. The only contention of the appellant is that defendant No.1 has sold the suit shop to defendant No.3 without his permission. As both Courts' below have concurrently found that the words "as regards permission of the plaintiff to sell the suit shop" are added subsequently, I see no reason to interfere with the findings of fact recorded by two Courts below. The Second Appeal is dismissed as no substantial question of law arises.

5. I place on record my appreciation for the assistance rendered by Shri Mhatre.

(M.S.KARNIK, J.)