

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
**SECOND APPEAL NO. 440 OF 2018**  
IN  
**CIVIL APPLICATION NO. 1011 OF 2018**

Shri Jaysing Anandrao Patil .. Appellant

Vs.

Shri Shashikant Ramchandra Pakhare (deleted)

Shri Ananda Dattu Pakhare  
(deceased) represented by Lrs.

2A. Smt.Chhabutai Ananda Pakhare and ors. .. Respondents

Mr.U.R.Mankapure, for the Appellant.

**CORAM : M.S.KARNIK, J.**

**DATE : 01<sup>st</sup> AUGUST, 2019**

**P.C. :**

. Heard learned Counsel for the appellant.

2. The appellant is the original defendant No.3. The Suit was filed by the plaintiffs for injunction against the defendants restraining them from causing obstructions to the plaintiff's possession of 7 Ane 6 Ps share in the suit property and suit well. The subject matter of the suit land is Gat No. 86, old survey No. 35/3 admeasuring 0 H.08 R, Pot-Kharab 0.06 R, assessment Rs.1.06 Ps., out of it 7 Ane 6 Ps. share including well

and electric motor. Plaintiffs No. 1 & 3 are real brothers. Plaintiff No.2 is their real uncle. It was the contention of the plaintiffs that defendant No.1 had filed Regular Civil Suit No. 107 of 1969 against father of plaintiff No.1 - Raghunath, plaintiff No.2 and father of plaintiff No.3 Pandurang and other persons for declaration that he has 4 Ane 5 Ps. share in the suit property and for partition of his share in the land surrounding the well in the Civil Court, Islampur. Defendant No.1 had no remaining share in the suit property. It was further held that father of plaintiffs No.1 & 2 were having 2 Ane share and plaintiff No.3 was having 5 Ane 6 Ps. Even Regular Civil Appeal was filed which was came to be dismissed.

3. On the basis of some sham and bogus entry in the record of rights, defendants No.1 & 2 who had no concern with the suit premises started obstructing the plaintiffs and tried to evict them from the suit property. The Courts below have found the plaintiffs to be in possession of the suit property and their rights in the suit premises to the extent 7 Ane 6 Ps share.

4. A finding of fact has been recorded that the defendants are causing unlawful obstruction to the plaintiff's right in the suit property. The defendant No.1 sold the share of the plaintiffs taking advantage of the entry in the record of rights to defendant No.3 unlawfully and defendant No.3 had unauthorizedly obtained electric connection by joining hands with MSEB.

5. The Courts below have found that the entries in the name of defendants No. 1 & 3 are sham and bogus. Furthermore, the findings is recorded by the Courts below that defendant No.3 is not a bonafide purchaser. Learned Counsel for the appellant invited my attention to the findings recorded by the Courts below to contend that having regard to the entries made in the revenue records and transaction that has taken place the defendant No.3 is a bonafide purchaser.

6. However, considering the findings recorded by the Courts below, I see no reason to interfere with these findings of fact which is based on the evidence on record. Present Appeal

does not involve any substantial question of law. The same is dismissed. In view of dismissal of the Second Appeal, Civil Application does not survive and the same shall stand disposed of.

**(M.S.KARNIK, J.)**