

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.636/2017

Govindrao s/o Champatrao Borkar .vs. Panjabrao Nathuji Borkar and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A. K. Sukhdeve, Advocate for applicant.

CORAM : V. M. DESHPANDE, J.

DATED : JULY 9, 2019

This appeal is filed by original plaintiff, who lost his cause in both the Courts below. He filed a suit for declaration, cancellation of sale deed, partition and separate possession. He sought cancellation of sale deed executed by his father Champatrao in favour of original defendant nos. 7 and 8. The sale deed is dated 02.04.2005. Defendant no.1- Panjabrao is plaintiff's uncle whereas defendant nos. 2 to 6 are plaintiffs's step brother and sisters.

According to the plaintiff, his grandfather Natthuji, his father Champatrao and his uncle Panjabrao were having ancestral property. It is the plaintiff's case that in spite of the said fact, Natthuji executed the sale deed in favour of his son Champatrao in the year 1977 who, in turn, transferred his title in favour of defendant nos.7 and 8 by sale deed dated 02.04.2005.

Burden was on the plaintiff to prove that the property which was sold by his grandfather in favour of his son Champatrao was a joint family property. Both the Courts below, on appreciation of the evidence brought on

record, found that the property, which was transferred in favour of Champatrao, who in turn, transferred the same to defendant nos. 7 and 8, was his separate property. If that be so, Natthuji was well within his right to dispose of his own property, may be to his son. After the sale deed was executed in favour of Champatrao, the property of Champatrao, which fell in the hand of Champatrao through that sale deed, becomes the self acquired property of Champatrao. Therefore, Champatrao was entitled to dispose of his property during his lifetime and accordingly, he executed the sale deed in favour of defendant nos. 7 and 8.

In view of the aforesaid, there is no substantial question of law involved in the present appeal. Thea appeal is, therefore, dismissed. No order as to costs.

JUDGE