

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

SECOND APPEAL NO. 272 /2018

(Shri Gopalrao Govindrao Telrandhe (Th.LRS) vs. Shri Dewaji Laxman
Telrandhe and others, Nagpur)

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

Court's or Judge's order

Mr. C.F.Bhagwani, Advocate for LR's of appellant

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 16th January, 2019.

Heard.

The appellant is the original plaintiff, who claims the property in question by virtue of will dated 18.10.1978 executed by Baliram, who was the grandfather of the original plaintiff i.e. appellant.

The learned counsel for the appellant submits that both the Courts below have erred in not considering the said will executed in favour of the original plaintiff, inasmuch as the trial Court has dismissed the suit filed by the original plaintiff for declaration and permanent injunction and the appeal by the lower Appellate Court.

In paragraph 15 of the judgment delivered by lower Appellate court, it is mentioned that the certified copy of the will bears the date 18.8.1979 although the will is shown to be dated 18.10.1978. So also, at the back side of the will there appears the stamp of the Corporation showing several columns put in it which further shows that this was the application for obtaining

the certified copy. It was observed by the lower Appellate Court that the evidence of the PW1-Gopal Telrandhe shows that he was unable to give any explanation about the assessment list attached with the will (Exh.52) and the stamp of the Nagpur Municipal Corporation affixed on the back side of the will, and it gives clear indication that either it was an application for obtaining certified copy or an application for mutating the name of the original plaintiff in the record of the suit property. It is further observed that the original plaintiff was unable to justify the queries with regard to the will as he was not aware of the execution of the will for 24-years. In the circumstances, the learned Judge of the lower Appellate Court so also the trial court disbelieved the will.

On a perusal of the judgments of both the Courts below, I do not find any perversity in the observations of the Courts below. No substantial question of law is involved in the present Appeal. Hence the Appeal deserves to be dismissed and the same is dismissed summarily.

JUDGE

sahare