

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No.143 of 2019
[Jagdish Baliram Meshram through P.O.A.H. Shri Roopak David Khristy & another Vs. Shri Roopak David Khristy & another]

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

Court's or Judge's orders

Mr. Masood Shareef, Adv., for the Appellants.

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CORAM : V. M. DESHPANDE, J.

DATE : 11th June, 2019

Heard Shri Masood Shareef, learned counsel for the appellants.

A suit for declaration and possession and perpetual injunction was filed by the present appellants against the respondents, which was dismissed by the learned Judge of the trial Court. An appeal carried against the said decision also received the same fate. Hence, the present Second Appeal.

According to learned counsel Shri Masood Shareef, the evidence of the appellants remained unchallenged, inasmuch as the witness for the appellants was not cross-examined by the other side.

Hence, the Court below ought not to have dismissed the suit.

During the course of the submission, it is revealed to this Court by the learned counsel for the appellants that the declaration, that was sought by the appellants from the Court, was that they be declared as allottees of the suit plot. According to him, the suit plot was allotted in favour of appellants by one Latika Singh, who, in turn, got the said piece of land from District Superintendent of Methodist Church. Interestingly, these two were not joined as party to the suit. Leave apart, though the appellants are placing reliance on Exh.61 - the affidavit of Latika Singh granting allotment of piece of land in favour of the plaintiff, she is not examined. Therefore, the said document is not proved and could not be admitted in evidence which both the Courts below have rightly discarded the same. Resultantly, there is no merit in the appeal. It is accordingly dismissed.

Judge

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