

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

**Second appeal No. 545/2019**

Sarangdhar Narayan Malokar

**-VERSUS-**

Trambak Gulabrao Dewar

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

Court's or Judge's Orders

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Shri S.S. Chopade, Advocate for appellant.

Shri U. J. Deshpande (Caveator), Advocate for respondent.

**CORAM : VINAY JOSHI, J.**

**DATE : DECEMBER 19, 2019.**

Heard.

2. The appellant is defendant of RCS No. 524/2012. The said suit was filed by the respondent for specific performance of contract on the basis of registered agreement dated 24.08.2005. On the date of agreement, amount of Rs. 2,00,000/- were paid as earnest amount. It is appellant's defence that it was money lending transaction and both Courts' below erred in holding that it was an agreement to sale. On perusal of the impugned judgment as well as some part of the evidence, it is revealed that execution of document of agreement to sale is not denied. It is also not denied that the appellant has received

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amount of Rs.2,00,000/-. The learned trial Court by referring Sections 91 and 92 of the Evidence Act held that it is not permissible to contradict the contents of written agreement. The defence appears to be considered by both the Courts and concurrent finding has been recorded about the execution of agreement. The appellant has not disputed during the course of argument that there was no readiness and willingness. Both the Courts held that plaintiff has complied with requirement of Section 16(c) of the Specific Relief Act. Merely because, there is any arguable point, it does not amount to substantial question of law to be entertained. The findings of facts are consistent.

3. In view of above, I do not find any substantial question of law arise in this appeal for determination. Hence, second appeal stands dismissed. No costs.

**JUDGE**

Gohane.