

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

SECOND APPEAL NO.576 OF 2019

Balkrishna D. Gadekar	..	Appellant.
v/s.		
Shri Dagadu M. Borade		
& Others	..	Respondents.

Mr. Ganesh Bhujbal, for the Appellant.
None for the Respondents.

CORAM: MADHAV J. JAMDAR,J.
DATED : 8th JANUARY, 2020.

PC:-

Heard Mr. Ganesh Bhujbal, for the Appellant.

2 Mr. Bhujbal, submitted that the substantial question of law involved in this Appeal is findings recorded by both the Lower Courts, are perverse.

3 This Second Appeal is filed by the original Plaintiff. The Plaintiff filed suit for simplicitor injunction. The suit has been dismissed by the judgment and decree dated 27th April, 2010 passed by the Civil Judge Junior Division, Khed, District Pune in Regular Civil Suit No.154 of 2001. The Appeal filed by the Plaintiff bearing Civil Appeal No. 12 of 2005 is also dismissed by the judgment and decree dated 21st August, 2017 passed by the Ad-hoc District Judge-I, District Pune.

4 Both the Courts below have concurrently held that, the Plaintiff has failed to prove that the Defendant has caused obstruction to

his possession over the suit property and Defendants are raising constructions to the suit property from the western side. With these finding, both the Courts below have concurrently held that Plaintiff is not entitled for the relief of the injunction. Both the Courts below have concurrently held that house property of Defendant is situated towards the southern side of the suit property and, therefore, there is no house property situated towards the western side of the suit property and, therefore, the contention of the Plaintiff that the Defendant has started construction in the suit property towards the western side, is found to be baseless contention.

5 The Courts below have concurrently held that there is absolutely no documentary evidence on record to show that Defendant No.3 started construction in the suit property from western side. Both the Courts have held that there is a public road towards the western side of the suit property and, therefore, no possibility of raising construction to the western side of the suit property as contended by the Defendant. Nothing has been brought to my notice that these findings are perverse or contrary to the evidence on record. Therefore, there is no substantial question involved in the above Second Appeal.

6 Accordingly, **Second Appeal is dismissed.** No order as to costs.

(MADHAV J. JAMDAR,J.)