

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

925 SECOND APPEAL NO.211 OF 2022  
WITH CA/6313/2022 IN SA/211/2022

VINAYAK BHIMASHANKAR SONTAKKE AND ANOTHER  
VERSUS  
SUNANDABAI NIVRUTTI DHUMAL

...  
Advocate for Appellants : Mr. Chandole S.V.  
Advocate for the respondent : Mr. R.R. Karpe h/f. Mr. Dashrath R. Dhumal  
...

**CORAM : MANGESH S. PATIL, J.**

**DATE : 21 APRIL 2022**

**PC :**

The original defendants are challenging the judgment and decree passed by the lower appellate court reversing the judgment of the trial court dismissing the respondent - plaintiff's suit for perpetual injunction.

2. The respondent claims to have purchased the suit property admeasuring 7 Acre by a registered sale deed executed by appellant's father- Bhimashankar on 13-08-1974. She averred that during implementation of the scheme of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short "**the Consolidation Act**") her name was not recorded to the fullest extent of the suit property i.e. 7 Acres but she has been in peaceful possession over the entire suit property since the date of the sale deed and the appellants are obstructing her possession.

3. I have heard the learned advocates of both the sides.

4. Though there has been some dispute in respect of the sale deed, in paragraph no. 2 of the written statement, the appellants specifically admitted its execution.

5. However, admittedly, while implementing the scheme under the Consolidation Act, only a portion admeasuring 2 Hectare 10 Are was recorded in respondent's name.

6. In the teeth of such a scheme finalized under that Act, and in the absence of any further modification, whether the respondent would be entitled to perpetual injunction to the extent of 7 Acres, is a substantial question.

7. The second appeal is **admitted** on the following substantial question of law:-

- I) When the jurisdiction of the civil court to embark upon the correctness or otherwise of the scheme finalized under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 is ousted under provisions of that Act, whether the respondent is entitled to claim perpetual injunction circuitously to the extent of 7 Acre ?

8. Mr. Karpe h/f. Dhumal for the respondent waives notice.

9. In view of the nature of the dispute, the parties shall maintain status-quo in respect of the suit property, as is obtaining today till the decision of the second appeal.

10. Civil application no. 6313 of 2022 is disposed of.

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/