

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 SECOND APPEAL NO.17 OF 2022
WITH CA/491/2022 IN SA/17/2022

RAMJI KERBA NAGARWAD AND ANOTHER
VERSUS
HANMANT DIGAMBER DIVTEWAD

...

Advocate for Appellants : Mr. Gangakhedkar Shailendra S.

Advocate for Respondent : Mr. Mrigesh D. Narwadkar.

CORAM : MANGESH S. PATIL, J.
DATE : 03.03.2022.

PER COURT :

Heard both the sides.

2. Though there are concurrent findings of facts of the courts below holding the respondent/plaintiff entitled to take exception to the sale-deeds executed by him in favour of the appellants on the ground of fraud, taking into account all the attending circumstances and the evidence particularly filing of a separate suit (Regular Civil Suit No. 20/2004) by the wife and minor children against the respondent arraying the appellants as defendants and questioning the self-same sale-deeds as not binding on their shares and when both the suits were allowed to be proceeded independently, the decision in Regular Civil Suit No. 20/2004 could have a bearing on the present decisions of the courts below.

3. The second appeal stands **admitted** on following questions of law :

(a) Whether the courts below were justified in concluding that there was sufficient pleading and evidence to demonstrate fraud so as to grant a relief under Section 31 of the Specific Relief Act ?

(b) Whether the lower courts were justified in holding the respondent entitled to the relief in view of the decision in Regular Civil Suit No.20/2004 ?

4. Considering the nature of the dispute, the parties shall not create any third party interest till the decision of the second appeal.
5. The Civil Application No. 491/2022 is disposed of.

(MANGESH S. PATIL, J.)

mkd/-