

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 134 OF 2022

Sau. Sunita Raju Kanble

Vs.

Vijay Shankarrao Kanbale and anr.

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

Court's or Judge's Orders.

Mr. C.A. Babrekar, Advocate for appellant.

CORAM : MANISH PITALE J.

DATE : 25.04.2022.

By this appeal, the appellant (original plaintiff) has challenged concurrent orders passed by the two Courts below rejecting the prayer for grant of decree of specific performance. The two Courts below have concurrently found against the appellant on the very question of execution of the agreement dated 26.12.2008. On the question of readiness and willingness also, the two Courts below have concurrently found against the appellant and it is also found that the appellant was in illegal possession of the suit property.

2. The only contention sought to be raised on behalf of the appellant is that procedural infirmities

in the proceedings before the trial Court led to the decree being passed against the appellant. The record shows that the evidence of the appellant as the original plaintiff was not permitted due to failure in payment of stamp duty despite impounding of the documents. It is also found that cross-examination of the witnesses of the defendant was not permitted due to defaults on the part of the appellant. As a consequence, neither is there any evidence on record to support the claims made by the appellant, nor is there any material to show that the evidence led by the respondent was controverted.

3. Even otherwise, the concurrent findings rendered by the two Courts below do not deserve interference. Hence, it is found that there is no substantial question of law arising the appeal and accordingly, it is dismissed.

JUDGE

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