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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

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SECOND APPEAL NO.100 OF 2015

Narayan Deo Pirachi Kurol

...Appellant

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Ajay A. Joshi for the Appellant.

Mr.V.S. Talkute for Respondent Nos.5 and 9.

CORAM : RAJESH S. PATIL, J.

DATE : 4TH DECEMBER, 2023.

P.C. :-

1. This Second Appeal filed under Section 100 of the Code of Civil Procedure by the Original Plaintiff, challenging the concurrent findings recorded by the District Court and Civil Judge (Junior Division), Pandharpur.

2. The Appellant - Original Plaintiff claims to be a Trust registered in the year 1962, who had filed a suit for declaration that the award passed is illegal and for injunction.

3. During the pendency of the suit, a Pursis was filed whereby the Plaintiff waived the claim of declaration of the award dated 29 August 2001 is illegal. Therefore, the suit was argued only for permanent injunction against the Defendants. The suit was filed

for injunction as regards three lands i.e. Gat Nos.756, 754/2 and 755/1. Both the Courts have held that the Plaintiff had failed to prove the title and possession of the Plaintiff as regards two lands i.e. Gat Nos.756 and 754/2. As far as Gat No.755/1 is concerned, the Plaintiff has failed to prove on record the documents to prove its title and possession. The Plaintiff had produced 7/12 extract, which was of the land bearing Gat No.755/2.

4. The Plaintiff had admitted that the Trust was registered however, in the evidence, the Plaintiff admitted that there was no bye-laws of the Trust. The Plaintiff further admitted that there is no account maintained by the Plaintiff at any time. The Plaintiff also admitted that there is no audit of the Trust carried out at any time. He also admitted that there is no register maintained in respect of the meeting held by the Trust. He also admitted that the temple - Narayan Deo at Pirachi Kuroli is in his own name.

5. Defendant Nos.4 and 5 had filed the certificate under Section 32 (m) of the Bombay Tenancy Act which showed that Savala Vithal Kagade was the tenant of land Gat No.754/2, which further showed that Gat Nos.754/1,750 and 752 are owned by Laxman Pujari. Defendant Nos.4 and 5 have produced the order dated 11 August 1995 by S.D.O. Pandharpur granting permission to sell the land. As per the said permission, Savala Vithoba Kagade has

sold the land on 17 August 1995 to Machindra, Gorakh, Shridhar and Vithal.

6. From the mutation entry No.440, it appears that the land admeasuring 1 H 82 Are and 1 H 46 Are out of Gat No.755/1 was acquired by the Government. The said fact has been admitted by the Plaintiff in his cross-examination. There is no challenge to the mutation entry No.440.

7. The Plaintiff has not produced any cogent evidence that Gat No.755/1 is in his possession. Gat No.753 is in the name of Defendant No.3 - Suryakant. This fact has been admitted by the Plaintiff. The Plaintiff has not produced any ownership and possession document.

8. The Appellant / Plaintiff has not showed on record any document to prove his possession. No substantial question of law is involved in the Second Appeal. Hence the Second Appeal is dismissed. There shall be no order as to costs.

(RAJESH S. PATIL, J.)