

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

SECOND APPEAL NO. 589 OF 2016

Shri Fakira Sawaliram Bhandure

..Appellant.

v/s.

Shri Sachin Shantaram Bhandure
& Others.

..Respondents

Ms. Jyotsna Nerkar, with Mr. Harshavardhan Shinde, Adv. Sanket Chandane, and Adv. Ganesh Dahej for the Appellant.
None for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 2nd NOVEMBER, 2023.**

P.C.

1. This is an appeal under Section 100 of CPC, challenging the judgment and order dated 29.09.2015 in Regular Civil Appeal No.237 of 2011 .

2. By the impugned judgment, the First Appellate Court dismissed the appeal and confirmed the judgment and decree dated 17.08.2009 passed by the Civil Judge, Junior Division, Nashik in Regular Civil Suit No. 569 of 2002 and Regular Civil Suit No. 190 of 2003.

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3. Heard learned Counsel for the appellant. I have perused the records. The appellant herein was the plaintiff in the suit, whereas, the

respondents were the defendants, and shall be hereinafter referred to as the plaintiffs and defendants respectively.

4. The plaintiff filed a suit for declaration that he has half share in the suit property and that Will dated 29.01.2002 executed by his mother Parvatabi Savliram Bhandure in favour of her grandson i.e. defendant no.1 is forged, fabricated and invalid. The suit property which is more particularly described in para 1 of the plaint was owned by the father of the plaintiff. Upon his death, the name of plaintiff, his mother Parvatabai, and defendant no.2 were recorded in the survey records. Said Parvatabai, who had 1/3rd share in the suit property executed a Will and bequeathed her share in favour of her grandson i.e. the defendant no.1. The plaintiff claimed that the said Will was forged and fabricated.

5. The trial Court has observed that the plaintiff has admitted that deceased Parvatabai had 1/3rd share in the suit property. He has also admitted that Parvatabai had bequeathed her share in favour of defendant no.1, and that the Will executed by Parvatabai has been registered with the Office of the Sub Registrar at Nashik. The Trial Court as well as the Appellate Court has observed that the plaintiff has admitted that the said Will bears the thumb impression of deceased Parvatabi and that the same was signed by the attesting witnesses. The learned Judge, considering the evidence of the attesting witnesses, and also considering the fact that Parvatabi was in good mental and physical condition, held

that Parvatabai was in sound state of mind and understood the effect of disposition. Both the Courts below have appreciated the evidence and recorded categorical finding that the Will was validly executed and is a genuine documents.

6. The findings recorded by the Courts below are not perverse. The appeal does not involve any substantial question of law. The appeal is dismissed.

(ANUJA PRABHUDESSAI, J.)