

Nikita

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

**SECOND APPEAL NO.552 OF 2023
WITH
INTERIM APPLICATION NO.15565 OF 2023
IN
SECOND APPEAL NO.552 OF 2023**

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Daulat Shripat Shedge

... Appellant

V/s.

Laxmi Janu Nandgaonkar and Ors.

... Respondents

Mr. Ganesh Bhujbal i/b Mr. Baburao D. Shinde for the
Appellant-Applicant.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 21, 2023

PC.:

1. The appellant is original plaintiff, who filed Regular Civil Suit No.95 of 2011, seeking a declaration that plaintiff be declared as owner of the suit property, based on sale deed dated 4th January 1979. Plaintiff further sought injunction not to disturb possession over the suit property.

2. The defendant contested the suit based on sale deed executed by daughter of Janabai Dharma Salgaonkar on 14th September 1994. It is proved fact that the authorities under the Bombay Tenancy and Agricultural Lands Act, 1948 issued certificate under Section 32(M) in favour of Janabai. The daughter, therefore, in her capacity as legal representative of Janabai,

obtained permission Section 43 of the BT & AL Act, 1948 and put defendant in possession. The Courts below framed necessary issues casting burden of proof on the plaintiff. In view of issuance of 32(M) certificate in favour of Janabai, being tenant under the provisions of the BT & AL Act, 1948, title of suit property passed on Janabai by virtue of operation of statute. Only bar from creating from selling such property is contained under Section 43 of the BT & AL Act, 1948. Daughter of Janabai after obtaining such permission, executed a sale deed in favour of the defendant. Certificate under Section 32(M) and permission under Section 43 of the BT & AL Act, 1948 has attained finality. Therefore, execution of sale deed by legal representatives of Janabai confers title on defendant.

3. Therefore, Courts below have rightly dismissed the suit. No substantial question of law arises for consideration.
4. The second appeal stands dismissed. No costs.
5. In view of disposal of second appeal, interim application stands disposed of as infructuous.

(AMIT BORKAR, J.)