

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

Second Appeal No.286 of 2021

DILIP @ DIPAK S/O LUNAKARAN HARKUT AND OTHERS

VS

BALKISAN NARSINGDAS HEDA (DEAD) THROUGH LRS. SMT. NIRMALABAI WD/O BALKISANJI HEDA
AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.S. Wathore, Advocate for the Appellant

CORAM : ANIL S. KILOR, J.

DATED : 03.02.2023

1. A concurrent finding by the both the Courts-below, holding that the plaintiffs/appellants failed to prove their ownership over the suit property on the basis of Will dated 11.03.1971, and thereby dismissal of suit for declaration and perpetual injunction is under questioned by way of challenge raised to the judgment and decree dated 23.02.2021 passed by the Principal District Judge, Amravati in Regular Civil Appeal No.56 of 2014, dismissing the appeal and upholding the judgment and decree dated 14.10.2023 passed by the Civil Judge Junior Division, Morshi in Regular Civil Suit No.66 of 2008.

2. The learned counsel for the appellants submits that despite a Will is a registered document, both the

Courts-below have discarded it and held that the Will was not proved.

3. I have perused the record and findings recorded by both the Courts-below as regards the Will while arriving at a conclusion that the plaintiffs failed to prove the Will.

4. It is a case of the plaintiffs that the suit property was owned by the original owner Baccharaj and he partitioned the suit property between his son and himself and the share which he received in the said partition, was included in the Will executed in favour of the plaintiffs.

5. However, the defendants specifically denied the ownership of Baccharaj and execution of partition and also the Will. The suspicious circumstances also narrated and stated by the defendants.

6. Accordingly, both the Courts-below, on the basis of oral evidence of the plaintiffs, have held that the plaintiffs failed to prove their case as regards partition and also title received by them through Will. Though, both the Courts-below have given concurrent findings on the same, nothing has been pointed out that the

concurrent findings recorded by the both the Courts-
below, are perverse or contrary to the evidence.

7. In the circumstances, as there is no substantial
question of law involved in the present appeal, the
second appeal is **dismissed**.

8. All pending applications, if any, shall stand
disposed of accordingly.

[ANIL S. KILOR, J.]