

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

SECOND APPEAL NO. 10/2023

SAU. SHEVANTABAI W/O DEVIDAS JADHAO

VS

SMT. PARVATABAI WD/O SHANKAR JADHAO (DEAD) 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 S.R.Tiwari, counsel for the appellant.

CORAM : ANIL S. KILOR, J.

DATED : 12/01/2023

1. In this appeal, the challenge is raised to the concurrent finding recorded by both the Courts below, holding that the plaintiff failed to prove that he is the owner of the suit property by way of registered will-deed dated 18/05/2007 executed by deceased Shankar Ganpat Jadhav, who received it in partition dated 01/10/1993.
2. Both the Courts below have recorded that the Will was a typed copy in local language and the testator was an illiterate person and no explanation was given, how the said will come in possession of the plaintiff.
3. It is further observed that mental ability of the testator, at the time of executing the will-deed was not established by producing any medical certificate or document.

4. Further it is held that substantial and good reasons are brought on record to legitimately suspect and question execution of Will.

5. After going through the evidence-in-chief led by the plaintiff nowhere, the plaintiff has stated the fact of the source and how the said document come into custody. However, the learned counsel for the appellant has pointed out from cross-examination of the plaintiff, that the plaintiff has disclosed the source from where the plaintiff came in possession of the said document. Both the Courts have concurrently held that the Will is not proved.

6. The learned counsel for the appellant has not pointed out anything to arrive at a conclusion that the said finding is without any evidence or perverse.

In the circumstances, as no substantial question of law is involved in the present Second Appeal. Accordingly, the Second Appeal is **dismissed**.

JUDGE