

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

Second Appeal (SA) No. 154 of 2021

Shailesh S/o Tikaram Gokhale and others

Versus

Surendra S/o Tikaram Gokhale 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.V. Sohoni, Advocate for the appellants.

Shri S.W.Sambre, Advocate for the respondent no.1.

CORAM : ANIL S. KILOR, J.

DATED : 11th APRIL, 2023.

Heard.

2. This appeal takes exception to the judgment and decree dated 3rd September, 2019, passed by District Judge-2 at Akola in Regular Civil Appeal No. 163 of 2009 dismissing the appeal and upholding the judgment and decree dated 25th September, 2009, passed by the learned Joint Civil Judge, Senior Division, Akola in Special Civil Suit No. 144 of 2003, decreeing the suit filed by the plaintiffs for partition, possession and setting aside alienation.

3. Both the Courts below after considering the case of the respondent no.6/appellant that the suit property was the self acquired property of Tikaram and respondent no.6 received the said property by way of will executed by Tikaram, held against the appellants.

Both the Courts below have concurrently held that the suit property is not a self acquired property, as such both the Courts have not accepted the case of the appellants.

4. Shri Sohani, learned counsel for the appellants has argued that both the Courts below have not considered the case of the defendant in right perspective and ignored the evidence led by the appellant.

5. In the light of said argument, I have perused the evidence led by the appellants and after going through the oral evidence, it is evident that the appellants have failed to even make out this case in their examination-in-chief that, the suit property is self acquired property of Tikaram. No evidence has been brought on record by the appellants to establish his case.

6. In that view of the matter, I do not find any error or perversity committed by both the Courts below while recording finding of the fact that the suit property is not self acquired property of Tikram.

7. In that view of the matter, as there is no substantial question of law is involved in this appeal. Accordingly, the second appeal is dismissed.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2023.04.12
19:41:58 +0530