



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 852 OF 2022

1. Rustumrao Jairam Sable
Age : 61 yrs, occ : agri.,
 2. Digambar Uttamrao Sable
Age : 41 yrs, occ : agri.,
Both r/o Renapur, Tq. Pathri,
District Parbhani.
- Appellants

Versus

1. Balasaheb Tukaram Tengse
Age : 51 yrs, occ : agri.,
R/o Renapur, Tq. Pathri,
District Parbhani
 2. Madan Narhari Kulkarni
Age : 71 yrs, occ : agri.,
R/o Renapur, Tq. Pathri,
District Parbhani
At present r/o Pannalal Nagar,
Near Eye Hospital, Kranti Chowk,
Aurangabad
- Respondents

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Mr. M.P. Tripathi, Advocate for the appellants.

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CORAM : SANDIPKUMAR C. MORE, J.

Dated : 17 January 2024.

Order :

1. Heard learned Counsel for the appellants, who are the original plaintiffs. The second appeal appears to be filed against concurrent finding of both the Courts below i.e. Civil Judge (Junior Division), Pathri, District Parbhani and learned District Judge-2, Parbhani i.e. the first appellate Court, of

rejecting the prayer of the present appellants for declaring them as owner of the suit house i.e. House No. 667 situated at village Renapur, Taluka Pathri, District Parbhani.

2. Learned Counsel for the appellants/plaintiffs submits that following substantial questions of law are involved in this appeal :

- (i) Both the Courts below failed to appreciate the evidence on record in proper perspective.
- (ii) Both the Courts below did not consider Namuma-8A showing continuous names of present appellants as owner of the suit house.
- (iii) Defendant No.2 i.e. the present respondent No.2 had no right, title and interest to sell the suit house to present respondent No.1.

3. On going through the judgment of the learned trial Court, it appears that the appellants/plaintiffs had claimed that they were owner of the suit house, but during pendency of the suit, forcibly dispossessed by the defendants from the suit house and defendant No.2 i.e. the present respondent No.2 illegally transferred the suit house in the name of respondent No.1 i.e. the original defendant No.1. The learned trial Court, after considering the evidence on record, has observed that the present appellants could not establish their ownership over the suit house with the help of reliable and

trustworthy documentary evidence. On the contrary, Namuma-8A in respect of the suit house relied upon by the appellants at Exhs.74 to 78 was in respect of some other property and not the suit house. Nothing was there on record to establish that Namuna-8A relied upon by the appellants/plaintiffs at Exhs.74 to 78 which was pertaining to other house numbers, was in fact concerned with the house number of the suit house. Moreover, the appellate Court has also upheld the said fact and dismissed the appeal by upholding dismissal of the original suit i.e. R.C.S. No.55/2011.

4. Thus, the finding of both the Courts below appears to be supported by trustworthy and reliable documentary evidence. It appears that the present appellants/plaintiffs could not establish their claim by adducing cogent evidence, either oral or documentary. As such, there appears no involvement of any substantial question of law as claimed by the learned Counsel for the appellants. In view of the same, the second appeal stands dismissed at admission stage.

(SANDIPKUMAR C. MORE, J.)