



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 628 OF 2023

Omprakash Bapurao Ghume

.. Appellant

Versus

Gaurishankar Sangram Ghume

.. Respondent

Mr. V. V. Bhavthankar, Advocate for the appellant.

Mr. D. P. Palodkar, Advocate for the respondent.

CORAM : R. M. JOSHI, J.

DATE : 23rd JANUARY, 2024.

PER COURT :

1. This appeal is filed under Section 100 of Code of Civil Procedure challenging concurrent findings recorded by the Trial Court and First Appellate court declaring plaintiff to be owner and in possession of suit property admeasuring 50 R from Gat No. 126 situated at village Andheri, Tq. Ahmedpur, Dist. Latur.

2. The Facts which led to filing of this appeal can be narrated as under :-

Plaintiff filed suit seeking declaration that he is owner and in possession of 50R land from Gat No.126 towards eastern side.

It is his case that Gat No. 126 admeasuring 85R land was purchased jointly by him and defendant vide sale-deed dated 26th May, 1998. It is his further case that as per the said sale-deed, plaintiff and defendant are having possession over their respective portion of the land. Since the defendant has disputed ownership and possession of plaintiff over 50R land from Gat No.126, suit came to be filed for declaration. Defendant though served with summons, failed to appear and file written statement. This contention of plaintiff went uncontested.

3. Apart from oral evidence led by plaintiff showing his possession over the suit property, sale-deed execution clearly shows that out of 85R land, 50R land towards eastern side belongs to plaintiff whereas defendant was owner of remaining 35R land. This fact is not disputed by defendant for want of written statement.

4. Record indicates that no case was made out by defendant before the First Appellate Court showing any reason which has prevented him from filing written statement.

5. Even before the First Appellate Court, no prayer was made for permitting the defendant to file written statement. Having regard to these facts, this Court finds no perversity in the findings recorded by both Courts. Since no substantial question of law is involved in this appeal, appeal stands dismissed.

(R. M. JOSHI)
Judge

dyb