

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.450 OF 2020

Bhimrao Raghunath Sing (Shinde)
deceased through L.Rs. & Ors.

....Appellants

V/S

Pandurang Ganpati Shewade
deceased through L.Rs. & Ors.

....Respondents

...

Mr. S.A. Rajeshirke for the Appellants.

...

CORAM: SANDEEP V. MARNE, J.
DATE : FEBRUARY 27, 2024.

P.C.:

1 By this Appeal the Appellants challenge judgment and decree dated 7 July 2017 passed by the Additional District Judge, Islampur dismissing Regular Civil Appeal No.69 of 2011 and confirming the decree dated 29 March 2011 passed by Civil Judge Junior Division, Sangli in Regular Civil Suit No.28 of 2004.

2 The original Plaintiff, of whom Appellants are legal heirs, instituted Regular Civil Suit No.28 of 2004 seeking a declaration that he has a share in the suit property and that the same be partitioned and separate shares should be allotted to him. He also challenged the mutation entry in respect of the land which was not covered by sale deed executed in favour of Defendant Nos.1 and 2.

3 Defendant No.1 and 2 appeared in the suit and filed Written Statement pleading that the entire suit property was sold to them by Plaintiff's father and this is how they claim ownership in respect of the entire suit property. Though Plaintiff alleges that his father did not have right to sale Plaintiff's share in the suit property, Plaintiff failed to take any steps to challenge the sale deed executed by his father in favour of Defendant Nos.1 and 2. The sale deed in question appears to have been executed in the year 1967 whereas the suit for partition and separate possession was lodged by the Plaintiff on 5 March 2004.

4 In my view therefore no serious error can be traced in the orders passed by the Trial Court and the First Appellate Court. No substantial question of law is involved in the Appeal. The Second Appeal is accordingly rejected.

(SANDEEP V. MARNE, J.)