

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 595 OF 2024
WITH
INTERIM APPLICATION NO. 13121 OF 2024**

Ananta Baburao Takalkar and Another ... Appellants

Vs.

Sandeep Suresh Paygude and Others ... Respondents

Mr. Bhalchandra S. Shinde for the Appellants

CORAM : GAURI GODSE, J.

DATE : 22nd OCTOBER 2024

ORDER :

1. Heard learned counsel for the appellants. This appeal is preferred by the original plaintiffs to challenge the concurrent judgments and decrees dismissing their suit for declaration and injunction. Learned counsel for the appellants submits that the documents executed in favour of defendant no. 2 and in turn the document executed by defendant no. 2 in favour of defendant no. 1 are bogus documents.

2. He submits that though the original documents were produced on record, both the courts have failed to correctly appreciate the objections raised on behalf of the plaintiffs regarding execution of these documents. He submits that defendants failed to lead any

Digitally signed
by
RAJESHWARI
RAMESH
PILLAI
Date:
2024.11.05
14:09:27 +0530

RAJESHWARI
RAMESH
PILLAI

evidence in support of their contentions that the documents in their favour were valid documents. He submits that both the courts erred in not correctly appreciating the evidence on record. He thus submits that the Second Appeal would require consideration as it raises substantial question of law on the point of incorrect appreciation of the evidence on record.

3. I have perused the impugned judgments as well as the pleadings. Both the courts have concurrently held that the plaintiffs failed to prove that the sale deed executed in favour of defendants are illegal or void documents. It is not in dispute that the vendor of the document executed in favour of defendant no. 2 is not made a party to the suit. The plaintiffs claim ownership of undivided share based on a sale deed executed jointly in the name of the plaintiffs along with other two purchasers who are not parties to the suit.

4. The impugned judgments indicate that the defendants had raised specific objection that the suit is not maintainable for non-joinder of necessary parties. The defendants claim their rights based on the documents executed by the original owner through whom even the plaintiffs claim title. The other purchase documents and the subsequent correction deed executed in favour of the plaintiffs and other purchasers are also examined by both the courts.

5. On examining the documents of title of both the parties, the suit filed by the plaintiffs for declaration and injunction has been dismissed. A perusal of the reasons recorded by both the courts clearly indicate that both the courts have exhaustively referred to factual contentions of both the parties with reference to the documents of title.

6. There is no illegality or perversity in the reasons recorded by both the courts. The arguments raised on behalf of the appellants pertains to reexamining the pleadings and evidence on record which is not permissible under Section 100 of the Code of Civil Procedure, 1908.

7. The Second Appeal does not raise any substantial question of law, hence Second Appeal is dismissed.

8. In view of the dismissal of the Second Appeal Interim Application No. 13121 of 2024 is disposed of as infructuous.

[GAURI GODSE, J.]