



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**Writ Petition No. 5771 of 2019**

amod Chotmal Chordiya ..vs.. Shri Vyankatesh Ramaswami Reddy through power of attorney holder Shri N. K. Balpande and ors.]

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. M. B. Turankar, Advocate for the petitioner  
Mr. S. N. Bhattad, Advocate for the respondent no. 2  
Mr. S. B. Bissa, AGP for respondent nos. 3 to 5

**CORAM : ANIL L. PANSARE J.**

**DATED : 04-07-2024**

Heard.

2. The petitioner's case is that the property under question was acquired by Shobhmal. The petitioner is one of the great grandsons of Shobhmal. Shobhmal had three sons, namely, Sheshrao, Mulchand and Chotmal.

3. Respondent no. 2's case is that the property under question was acquired by Sheshrao. He sold it to one Vyankatesh (Respondent no. 1). After the death of Sheshrao, property devolved upon three sons, namely, Premchand, Chandrakant and Surendra. According to respondent no. 2, Premchand and Surendra had given no objection in favour of Chandrakant for selling the disputed property, which ultimately was sold by Chandrakant to respondent no. 1 – Vyankatesh on 31-12-2005. In turn, respondent no. 1 sold it to respondent no. 2 on 4-6-2016.

4. Upon making a specific query as to whether the sale deed executed by Chandrakant in favour of respondent no. 1 has been challenged, learned counsel for

the petitioner avoided to answer the query and made an attempt to divert the issue by inviting my attention to Annexure – F. This is suit filed by the petitioner against respondent no. 1, 2 and Chandrakant. Prayers therein read thus :

- “(i) to grant declaration of cancellation, cancelling of alleged sale deed dated 04.06.2016 vide serial No. 1446/16 for a consideration of Rs. 4,20,000/- executed by defendant no. 1 in favour of defendant no. 2 registered at the office of Sub Registrar, Umred, Class-I declaring bogus, sham, illegal, void, inoperative and ab-initio and cannot acted upon and no legal right, or title conferred upon the defendant no. 2 under law and placed the plaintiff in possession of suit property as more clearly described in schedule forming part of plaint.*
- (ii) to hold an enquiry into future mesne profits Under Order 20 Rule 12 of C.P.C.*
- (iii) to grant costs of the suit against the defendants.*
- (iv) to grant any appropriate reliefs which deems fit under the circumstances to do full justice.”*

5. As could be seen, what has been challenged is sale deed executed by respondent no. 1 in favour of respondent no. 2 and not the sale deed in favour of respondent no. 1.

6. At this stage, learned counsel for the petitioner submits that respondent no. 1 had filed the suit seeking declaration of ownership on the basis of sale deed dated 31-12-2005 executed by Chandrakant seeking declaration that he is owner of the property. The suit was filed against present petitioner and four others. I have gone through

the suit and prayer. It appears that primary reason for filing suit was to restrain defendants therein (petitioner and four others) from disturbing alleged possession of the respondent no. 1. This suit has been ultimately withdrawn.

7. Learned counsel for the petitioner submits that the effect of withdrawal will be that the sale deed executed in favour of respondent no. 1 would be void.

8. The submission appears to be imaginary having no support of law. It appears that sale deed in favour of respondent no. 1 is a registered document. There is no challenge to the said sale deed either by the vendor or any other person including the petitioner. In absence of challenge to sale deed in favour of respondent no. 1, to my mind, it is quite challenging to the petitioner to prove his case that the sale deed executed by respondent no. 1 in favour of respondent no. 2 is either illegal or null and void.

9. Be that as it may, the petitioner's claim is based on acquisition of the property by Shobhmal. He has, in the present petition, challenged order passed by the Deputy Director of Land Records, who found that the petitioner failed to place on record any document to show that his grandfather has ever acquired the property. Upon a specific query made by the Court as to whether there is any document of title available with the petitioner or a document to show or suggest that property under question was ever recorded in the name of Shobhmal, learned counsel failed to show a single document.

10. If that be so, I do not find any reason to entertain the petition which is based on some fictitious and imaginary grounds. The petitioner's claim having been based on the title of Shobhmal, it will be impermissible for him to lodge any claim on the property which was allegedly belonging to Shobhmal.

11. The petition is accordingly dismissed with costs of Rs. 5,000/- to be deposited within 15 days with Bar Library at High Court, Bench at Nagpur.

**(Anil L. Pansare, J.)**

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