

MJ Jadhav

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
Date:
2025.02.18
12:56:23
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO. 35284 OF 2015
WITH
CIVIL APPLICATION NO. 350 OF 2019
WITH
CIVIL APPLICATION NO. 621 OF 2016
IN
SECOND APPEAL (ST) NO. 35284 OF 2015**

Anandibai Joti Hande ... Appellant/Applicant

vs.

Dagadu Dnyanu Shinde and Ors. ... Respondents

Mr. Rahul P. Walvekar for the Appellant/Applicant.

Mr. Drupad Patil a/w Srushti Chalke for Respondent Nos.1, 2(a) and 2(c).

CORAM : GAURI GODSE, J.

DATED : 10th FEBRUARY 2025

ORDER:

1. Heard learned counsel for the appellant.
2. This appeal is preferred by the defendant no.2 to challenge the concurrent judgments and decrees of injunction in favour of respondent no.1 i.e. original plaintiff. By the impugned decree, the defendants are restrained from causing any obstruction or interfering with the plaintiff's possession over the suit land bearing Gat No.809.

3. Learned counsel for the appellant submits that the appellant is owner of part of Gat No.811 purchased by defendant no.2 from defendant nos.3 and 4. He submits that in the absence of any description of the suit property, both the courts erred in granting injunction only by relying upon the Court Commissioner's map.

4. Learned counsel for the appellant relied upon paragraph nos.1 and 3 of the plaint to support his submission that the suit property is not described by the plaintiff alongwith the boundaries. He, therefore, submits that in view of Order VII Rule 3 of the Code of Civil Procedure (Bombay Amendment). The plaintiff would not be entitled to seek any injunction against the appellant.

5. I have perused both the judgments and the plaint. The impugned decree restrains all the defendants including the present appellant from obstructing the plaintiff's possession over land Gat No.809. A perusal of plaint clearly indicates that the suit property is described as Gat No.809 in the Paragraph No.1. Paragraph No.2 of the plaint describes all the boundaries of the suit land i.e. Gat No.809. Hence, I find no substance in the arguments raised on behalf of the appellant that boundaries of the suit land are not described. Both the Courts recorded concurrent findings of fact based on the pleadings and the supporting evidence including the

Court Commissioner's map to accept the plaintiff's contentions. Nothing is shown to find fault in the Court Commissioner's map and the supporting evidence.

6. I do not find any illegality or perversity in the appreciation of pleadings and the evidence by both the Courts. The suit is for injunction based on title; hence, the arguments raised on behalf of the appellant by relying upon Order VII Rule 3 of CPC is of no assistance to the appellant.

7. The second appeal does not raise any substantial question of law. Hence, the second appeal is dismissed.

8. In view of the dismissal of the second appeal, all pending interim applications are disposed of as infructuous.

(GAURI GODSE, J.)