

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**SECOND APPEAL NO. 286 OF 2018
WITH
CIVIL APPLICATION NO. 554 OF 2017
INTERIM APPLICATION NO. 829 OF 2025
INTERIM APPLICATION NO. 823 OF 2025
IN
SECOND APPEAL NO. 286 OF 2018**

Natha Bala Salunkhe
(Deceased Thr. LRs) and ors

.....Appellants

Vs.

Ashok Yuvraj Salunkhe and ors

.....Respondents

Mr. Manoj Patil for the appellants
Mr. Pratap Patil for respondent nos. 1 to 4

CORAM : GAURI GODSE, J.

DATE : 25th MARCH 2025

IRESH
MASHAL

Digitally
signed by
IRESH
MASHAL
Date:
2025.04.03
09:48:59
+0530

ORDER:

1. Heard learned counsel for the appellants. This appeal is preferred by the defendants to challenge the concurrent judgments and decrees in favour of the plaintiffs granting injunction to protect their possession. The plaintiffs filed the suit for injunction based on title.

2. Learned counsel for the appellants submits that the suit property admittedly was owned by one Sakharam and the plaintiffs are claiming title to the suit property based on sale deed executed by Sakharam's widow Harubai. He submits that the defendants are claiming through Rajaram i.e. son of Sakharam and Harubai. He submits that the defendants are nephews of Rajaram and thus, they are entitled to inherit the suit property. He submits that the suit property was a tenanted property and the defendants were always in possession and cultivating the suit properties. He submits that according to the defendants, Harubai expired sometime in 1944 and after her death, the plaintiffs got a fraudulent document executed in the name of Harubai on 18th September 1998. He thus, submits that both the Courts erred in not properly appreciating the pleadings and supporting evidence that the plaintiffs would not be entitled to claim any right or possession based on the fraudulently executed document. He, further submits that in a suit for injunction, it was obligatory for the plaintiffs to describe the boundaries of the suit property. He, thus, submits that in the absence of any description of the boundaries of the suit properties, the decree for injunction would not be sustainable. He, therefore, submits that the second appeal would require consideration as the

aforesaid grounds raise substantial questions of law.

3. I have perused papers of the second appeal. There is no dispute that Sakharam had only two children i.e. Rajaram and Anusaya. Anusaya expired in 1959 and Rajaram expired in 1978. The sale deed relied upon by the plaintiffs is dated 18th September 1998. The sale deed was produced on record at Exhibit 88. The sale deed in favour of the plaintiffs was never challenged by the defendants. Based on the documentary and oral evidence on record, both the Courts accepted the plaintiffs' title and possession on the suit property. The suit properties are agricultural lands as described in the suit and the plaintiffs claim exclusive ownership on all the suit properties. Considering the plaintiffs title over the suit property, based on document, the description of the boundaries of the property was not necessary. Thus, both the Courts accepted the plaintiffs' title and possession based on the title document produced on record.

4. Though the defendants claim interest in the suit property through Rajaram, nothing is pleaded and proved as to how the defendants would succeed through Rajaram. The objection that the sale deed was fraudulently executed is disbelieved by both the Courts for want of any

sufficient evidence. Even otherwise, the sale deed was never challenged by the defendants. Both the Courts have examined the documentary evidence in the form of revenue records to accept the plaintiffs' possession over the suit property and title based on the sale deed.

5. The reasons recorded by both the Courts are based on the substantive evidence in the form of documents and oral evidence led by the plaintiffs. I do not see any illegality or perversity in the reasons recorded by both the Courts.

6. In view of the concurrent findings recorded by both the Courts, the grounds raised on behalf of the appellants would not require any consideration. I do not find any substance in the arguments raised on the point of description of the boundaries in view of the title document and the revenue record in favour of the plaintiffs.

7. In the absence of any supporting evidence, both the Courts have rightly disbelieved the defendants' claim through Rajaram. Hence, I do not see any reasons to interfere in the impugned Judgment. The second appeal does not raise any question of law.

8. Hence, the second appeal is dismissed.
9. In view of dismissal of the second appeal, all pending applications are disposed of as infructuous.

[GAURI GODSE, J.]