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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO. 22434 OF 2019
WITH
INTERIM APPLICATION NO. 1830 OF 2025
CIVIL APPLICATION NO. 6 OF 2025**

Sonaba Baburao Kadam ... Appellants/Applicants
(1 and 2 through POA
Appellant No.3.) and Others
Vs.

Jagannath Tatya Parit (since ... Respondents
Deceased through LRS)
Dilip Jagnnath Parit and Others

MR. Uday P. Warunjikar for the Appellants/Applicants,

CORAM : GAURI GODSE, J.

DATE : 1st APRIL 2025

ORDER :

1. Heard learned counsel for the appellants. This appeal is preferred by the plaintiffs to challenge the concurrent judgments and decrees dismissing the suit for possession. Learned counsel for the appellants submits that the sale deed relied upon by defendant nos. 1 to 5 is an unregistered sale deed as the consideration amount was Rs.99/-. He however submits that the plaintiffs disputed execution of any such document. To support their contentions the

plaintiffs examined the brother of the bond writer of the document to support the plaintiffs contention that the document was not signed by the plaintiff's father i.e. Baburao. He submits that the attesting witness and the executor were no more and hence the plaintiffs examined the brother of the bond writer. To support their contentions that the documents were not signed by the plaintiffs' father, he submitted that the plaintiffs had filed an application for referring the document to handwriting expert for verifying the signature. He submits that the said application was not considered by the trial court on the ground that the application was not further processed by the plaintiffs. He submits that since the application was filed the trial court ought to have referred the document to the handwriting expert for examining and verifying the signature. He therefore submits that the aforesaid grounds would raise substantial question of law.

2. To examine the grounds raised on behalf of the appellants I have perused both the judgments and the pleadings. The plaintiffs have referred to the sale deed in favour of defendant nos. 1 to 5, however, the plaintiffs have not challenged the document. The plaintiffs have also not prayed for any declaration of title.

3. Learned counsel for the appellants raised grounds on the

findings recorded on the suit being barred by limitation. He submitted that the suit was filed on the ground that the plaintiffs were illegally dispossessed. Both the courts have refused to accept the plaintiffs contention for want of any evidence. The findings on possession recorded by both the courts is based on the revenue record and the supporting oral evidence. In the absence of any evidence of illegal dispossession of the plaintiffs the suit is rightly dismissed also on the ground that it barred by limitation by referring to the provisions of Article 65 of the Limitation Act, 1963.

4. Both the courts have referred to the evidence produced on record. Based on the documents on record the trial court verified the signatures on the admitted documents and recorded findings by accepting the signature of Baburao. In view of the documents on record and the oral evidence the comparison of the signature done by the trial court is a permissible comparison in view of section 73 of the Indian Evidence Act, 1872.

5. Both the courts have also referred to the oral evidence of the plaintiffs. Based on the documents and the oral evidence accepted the validity of the sale deed in favour of defendant nos. 1 to 5. The revenue record placed on record also supports the title and possession of defendant nos. 1 to 5. Neither the sale deed is

anytime challenged by the plaintiffs nor the revenue records are challenged by the plaintiffs. For want of any supporting evidence the plaintiffs' theory of possession is also disbelieved by both the courts.

6. In the absence of any challenge to the sale deed in favour of the defendants the reasons recorded by both the courts in disbelieving the plaintiffs' title cannot be faulted. The findings recorded by both the courts for accepting the title of defendant nos. 1 to 5 and their possession is based on the correct appreciation of the pleadings and substantive evidence on record.

7. I do not see an illegality or perversity in the reasons recorded by both the courts. In view of the concurrent findings recorded, I see no reason to interfere in the impugned judgment on the grounds raised on behalf of the appellants.

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

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

[GAURI GODSE, J.]