



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

Second Appeal No.435 of 2022

Shri Purushottam Vithobaji Sonewale and another
vs.
Pramod Pandurang Sonewale

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. S.D. Khati, Advocate for the Appellants.
Mr. P.V. Ghare, Advocate for the Respondent.

CORAM : ROHIT W. JOSHI, J.
DATE : 6th OCTOBER, 2025.

Heard the learned Counsel for the parties.

02. Vide By the order dated 23/04/2025, notice was issued in the present second appeal on the following substantial questions of law:

- (i) *Were the courts below justified in dismissing the suit holding that the Plaintiffs have failed to prove their ownership over the suit property, when pursuant to letter dated 26/02/1968 (Exhibit-39) lease was executed by the NIT solely in the name of father of Plaintiffs to the exclusion of his other brothers and sisters who are signatories to the letter dated 26/02/1968 (Exhibit-39)?*
- (ii) *Whether the learned courts below erred in appreciating and applying the ratio of Judgment of the Hon'ble Supreme Court in the matter of **Kale and Others V/s Deputy Director of Consolidation and Others, AIR 1976 Supreme Court 807** in the facts of the present case?*

03. The appellants are the original plaintiffs, who have filed the suit for possession against the defendant, who is his cousin i.e. the son of real paternal uncle. The contention of the plaintiffs is that the suit property is a NIT leasehold land, which was initially held by Laxman, the grandfather of the plaintiffs. The case of the plaintiffs as is apparent from the plaint is that after the demise of grandfather-Laxman, their father Vithobaji paid some consideration to other brothers and sisters and obtained letters at Exh.39 and Exh.40 from them, whereby they have consented for execution of lease-deed by the NIT in favour of their father Vithobaji alone.

04. Both the learned Courts have discarded the documents at Exh.39 and Exh.40 on the ground that the documents are in the nature of relinquishment-deed, for which a registered document was necessary. Exh.40 is also disbelieved on the ground that Hari, who has issued the said letter, was in jail at the relevant time and the document does not bear signature of any jail authority and there is no explanation as to how the document was procured from Hari while he was in jail.

05. During the course of argument, a contention was raised that the arrangement between the parties arrived at vide Exh.39 and Exh.40 for execution of lease-deed in the sole name of Vithobaji was in the nature of family arrangement. However, the pleadings and evidence are completely silent as regards the terms of alleged family arrangement. It is not clear from record as to which property went to the share of other brothers and sisters under the alleged settlement. Assuming that the settlement was to give up rights in the said property in view of some monetary consideration, the pleadings and evidence in that regard are also completely silent. Both the learned Courts have, therefore, disbelieved the version of the plaintiffs that letters at Exh.39

and Exh.40 reflect a family settlement. The findings recorded by both the learned Courts appear to be just and proper. It cannot be disputed that the plaint and evidence of the plaintiffs do not speak about the property that allegedly fell to the share of other brothers in the family settlement and they are also silent with respect to the alleged consideration paid by Vithobaji, the father of the plaintiffs.

06. In view of the above, in the considered opinion of this Court, no case for interference is made out. Both the substantial questions of law need to be answered against the appellants/plaintiffs and the respondent/defendant in the light of pleadings and the evidence brought on record. The second appeal is accordingly dismissed with no order as to costs.

JUDGE

**sandesh*