



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

SECOND APPEAL NO.227/2025

Rajendra Wamanrao Bankar

...Versus...

Nagorao Chindhuji Dhakulkar (Dead) Through his Legal Heirs
Prabhakar Nagorao Dhakulkar (Abated) (Dead Through L.Rs.)
Pushpa Prabhakar Dhakulkar and others

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

Court's or Judge's orders

Mr. Prashant Gode, Advocate for appellant
Mr. A.S. Dhore, Advocate for respondents

CORAM : ROHIT W. JOSHI, J.

DATE : 13/11/2025

1. The present appeal is preferred against the concurrent decrees refusing to grant specific performance of contract. The case of the plaintiff/appellant is that the initial agreement with respect to the suit property, which is an agricultural land, was entered into between plaintiff and the defendant on 24/02/1994 (Exh.67), whereby the defendant had agreed to sell the suit property to the plaintiff for a consideration of Rs.3,500/- per acre.

2. It is the case of the plaintiff that subsequent agreement was renewed on 21/05/1997 (Exh.71). It is the case of the plaintiff that the suit property was mortgaged with Central Bank of India under a mortgage, which was created by way of conditional sale. The case of the plaintiff is that unless a deed of reconveyance is obtained by Central Bank of India upon redemption of mortgage, sale-deed with respect to suit property could not be executed.

3. The case of the defendant is that the transaction between the parties is a loan transaction and that the plaintiff had

obtained signatures of the defendant on blank stamp paper and accordingly, created the agreements in question by misusing the same. The learned trial Court has held that the agreement of sale dated 24/02/1994 was a genuine document and that the plaintiff had also established payment of earnest money in terms of the said agreement. However, finding with respect to subsequent agreement dated 21/05/1997 is recorded against the plaintiff. It is held that the plaintiff failed to prove renewal of contract upon payment of amount of Rs.21,000/- on 21/05/1997, as contended by him. Accordingly, the suit for specific performance of contract was dismissed.

4. The learned first Appellate Court has confirmed the said judgment and decree. The learned first Appellate Court has referred to the subsequent agreement of the year 1997 which is at Exh.71 and has found that in the signature of the defendant on the said document, the name of the defendant appears in different ink than the middle name and surname, which are in different ink. Both the learned Courts have concurrently disbelieved the subsequent agreement dated 21/05/1997. The findings recorded by both the learned Courts are pure findings of facts, which are recorded on appreciation of evidence, particularly signature of the defendant on the subsequent agreement which is two different inks. The view taken by both the learned Courts is a possible view, which does not warrant interference in exercise of jurisdiction of this Court under Section 100 of the Code of Civil Procedure. It must also be stated that the contention of the plaintiff is that under the subsequent agreement, a payment of Rs.21,000/- was made to the defendant, which he has failed to establish. The pleadings of readiness and willingness are also taken into consideration. Total area of suit property is about 3 Hectares 66 R which would be

around 9 acres. The sale consideration was allegedly determined at Rs.3,500/- per acre. The contention of the plaintiff appears to be that almost entire consideration was paid, which is found to be incorrect on appreciation of facts.

5. Having regard to the aforesaid, the second appeal does not disclose any substantial question of law and is liable to be dismissed accordingly. The same is dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)