



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

Second Appeal No.337 of 2025

Pawan s/o Nivrutti Dhekekar

vs.

Ratanlal Kanhaiyalalji Bhutada and another

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

Court's or Judge's Orders

Mr. H.M. Bobade a/w Mr. Vijay Mishra, Advocates for the Appellant.

CORAM : ROHIT W. JOSHI, J.

DATE : 9th DECEMBER, 2025.

Heard.

02. The present appeal arises out of a suit for specific performance of contract. The appellant is original defendant No.2, who is a *lis pendens* transferee. The plaintiff had entered into an agreement of sale in respect of the suit property, which is an agricultural land, on 29/03/2011. In terms of the said agreement, the total sale consideration of Rs.10,00,000/- was agreed between the parties, out of which a sum of Rs.7,00,000/- was paid by the plaintiff to defendant No.1 at the time of execution of the agreement. The record indicates that the plaintiff and defendant No.1 had agreed to extend the time for execution of the sale-deed since crops of defendant No.1 were standing on the suit property. Despite receiving an amount of Rs.7,00,000/- from the plaintiff, defendant No.1 did not execute the sale deed in favour of the plaintiff, as a consequence of which, the plaintiff filed a civil suit for specific performance of contract, being Special Civil Suit No.126/2012, which came to be registered on 10/07/2012. Thereafter, defendant No.1 sold the suit property to defendant No.2 vide sale-deed dated 22/01/2013.

03. The plaintiff entered the witness box and proved the agreement of sale, the agreement for extension of time, as well as the

payment of Rs.7,00,000/- as mentioned in the agreement. The plaintiff also examined the attesting witnesses to the agreement. As against this, defendant No.1, who filed written statement contending that the agreement of sale was in fact a camouflage for a loan transaction between the plaintiff and defendant No.1, did not enter the witness box. Defendant No.2, who is the subsequent purchaser and the appellant in the present appeal, also filed his written statement and after being added as a party, entered the witness box. Defendant No.2 claims to be a *bona fide* purchaser for value.

04. The execution of the agreement is not in dispute. The defence of transaction being a loan transaction, is not proved since defendant No.1 did not enter the witness box. Defendant No.2, who contested the suit, also did not examine defendant No.1. Defendant No.2 has no personal knowledge regarding the *inter se* transaction between the plaintiff and defendant No.1. Both the learned Courts have properly appreciated the evidence on record and have correctly drawn an adverse inference against the defendants on the ground that defendant No.1 was not examined as a witness.

05. The contention of defendant No.2 of being a *bona fide* purchaser for value cannot be considered, since admittedly, he is a *lis pendens* transferee.

06. The concurrent findings recorded by the learned Courts granting a decree for specific performance, therefore, do not warrant any interference. In the result, the following order is passed:

- i. The decree for specific performance is confirmed.
- ii. The second appeal stands dismissed with no order as to costs.

JUDGE