



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

SECOND APPEAL NO.79 OF 2024

Vasant Kashiram Nikhade Vs. Sau. Kamabai Jagdev Bhople

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

Court's or Judge's orders.

Shri K.R. Lule, Advocate for appellant.

CORAM : M.W. CHANDWANI, J.

DATE : 17.02.2025.

1. The appellant has come with a suit vide Regular Civil Suit No.25/2010 for declaration of ownership of the suit property, injunction on the basis of the will and to restrain the defendant from disturbing his peaceful possession.

2. Deceased Waman executed a registered will-deed of the suit property in favour of the appellant. The appellant pleaded that deceased Waman, who was his uncle, was issueless and the respondent is claiming to be his daughter. The trial Court though, held that the execution of the Will is proved by the appellant but dismissed the suit for injunction on the ground that he did not comply with the mandatory condition imposed by the testator to maintain his daughter i.e. the respondent therefore, the Will will not take its effect. The appellant came with a case that deceased Waman was issueless. The appellant by filing Regular Civil Appeal No.245/2012 made an unsuccessful attempt before the first appellate Court. Rather, the appellate Court also held that

the Will is surrounded by the suspicious circumstances and even held that the Will has not been proved by the appellant. Feeling aggrieved with this, the present appeal has been filed

3. Since, the Will itself whispers the respondent being the daughter of Waman has to be maintained by the appellant and then only the Will will take its effect; therefore, the judgments of the Courts below are right in non-suiting the appellant. No substantial question of law arises in this appeal and the same is dismissed.

JUDGE

Wagh