



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO. 204 OF 2026
WITH
CIVIL APPLICATION NO. 3463 OF 2026
IN SA/204/2026**

Limba s/o Dagdu Sasane,
Age; 62 years, Occ; Labour,
R/o; Datta Nagar, Murud,
Tq. & Dist. Latur.

...APPELLANT
(Original Defendant)

VERSUS

Vitthal s/o Dasu Paul,
Age; 77 years, Occ; Labour,
R/o; Datta Nagar, Murud,
Tq. & Dist. Latur.

...RESPONDENT
(Original Plaintiff)

...
Advocate for the Appellant : Ms.Kanchan Patil h/f Mr. H.A. Karad
...

CORAM : MEHROZ K. PATHAN, J.
DATE : 23.04.2026.

JUDGMENT :

1. The appellant has filed the present appeal thereby challenging the judgment dated 19.01.2026, passed by the appellate Court in Regular Civil Appeal No. 20 of 2021, thereby dismissing the First Appeal filed by the original defendant/appellant herein Limba Sasane, against the judgment and decree passed by the Joint Civil Judge Senior Division, Latur in Regular Civil Suit No. 348 of 2014 decided on 08.02.2021. (The parties are hereinafter are referred to as,

as per their original status in the lower Court as “Plaintiff and Defendant” for the sake of brevity).

2. that the plaintiff Vitthal Paul has filed a Regular Civil Suit No. 348 of 2014, for recovery of possession of the suit plot from the defendant having CTS No. 1971, ad-measuring 1089 Sq.ft. situated at Murud, Tq. and District Latur, which was granted by the Government to the families of economically weaker sections of Society from the Gairan land at village Murud, Tq. & Dist Latur and ‘Kabala’ was also given to the allottee. On the basis of said allotment by the Government, the name of the plaintiff was recorded in the Grampanchyat record and on the basis of actual possession of Gat number was given to the suit plot.

3. It is the case of the plaintiff that he took a hand loan of Rs. 20,000/- from the defendant, wherein, it was agreed that the defendant would stay on the said plot till the repayment of the hand loan. A blank stamp paper was handed over to the defendant in lieu of Rs. 20,000/- paid by plaintiff. The said stamp paper bearing the signature of plaintiff and his two sons, was misused by the defendant. Even though, the plaintiff has allegedly made repayment of the hand loan of Rs. 20,000/- to the defendant on 26.06.2014 in presence of his brother-in-law Balu Kasbe and demanded the blank

stamp paper, however, the defendant refused to hand over the blank stamp paper to the plaintiff and denied the recovery of possession. Thus, the refusal by the defendant to hand over the blank stamp signed by the plaintiff and his two sons, and also refusal to hand over the possession, on 20.07.2014, gave cause of action to the plaintiff for filing the suit for recovery of possession.

4. The defendant had contested the suit and denied the contention that the suit plot was handed over to him in lieu of Rs. 20,000/- hand loan. According to the defendant, the sale deed was executed by the plaintiff in favour of the defendant, which was drafted on Rs.100/- stamp paper, bearing signature of the plaintiff, however, the same could not be registered. The defendant took a electric connection to the said plot and is residing in the said plot since many years as a owner thereof. The defendant claimed that the suit plot was purchased by him and requested for dismissal of the suit.

5. From the record it appears that the plaintiff Vitthal Paul had examined himself as PW-1 and Balu Kasbe as witness on hand loan of Rs. 20,000/- as PW -2, Shaikh Shaukat Ali Inayat Ali, the Gram Sevak of Grampanchyat, Murud, PW-3 is a witness on Grampanchyat record showing that the plaintiff is owner of the suit

plot and allotment is made to the plaintiff by the Government as 'Kabala'. The plaintiff relied upon the documentary evidence of the assessment register (Exhibit-74) of the Grampanchyat record proved by PW-3. A photo copy of the 'Kabala' is corroborated by the Grampanchyat record assessment register and other relevant documents.

6. To prove his case the defendant on the other hand relied upon unregistered sale deed dated 22.06.2011, written on Rs.100/- stamp paper Exhibit- 65 and has examined himself as DW-1.

7. The learned trial Court after considering the evidence led by the plaintiff and the defendant, had come to a conclusion that even considering the unregistered sale deed dated 22.06.2011 claimed by the defendant and the possession of the suit plot allegedly given to the defendant in the year 2012, the suit filed in the year 2014 was within the limitation. It was further concluded relying upon the documentary evidence as well as ocular evidence led by the plaintiff that the plaintiff had taken a loan of Rs. 20,000/- from the defendant and handed over the possession of the suit plot to the defendant, in lieu of the interest of the hand loan and signed a blank stamp paper. The learned trial Court, therefore, decreed the suit with a direction to the plaintiff to pay the amount of Rs. 20,000/- to the

defendant towards the repayment of hand loan and thereafter the defendant to deliver the possession of the suit plot to the plaintiff, within 15 days, vide the judgment and order dated 08.02.2021.

8. The defendant Limba Sasane had filed an appeal challenging the said judgment and decree passed on 08.02.2021, by the learned Civil Judge Senior Division, Latur, in Regular Civil Suit No. 348 of 2014, by filing an appeal before the learned District Judge, Latur bearing Regular Civil Appeal No. 20 of 2021. The learned District Judge, Latur vide its judgment dated 19.01.2026 was pleased to dismiss the appeal. The appellant/defendant is thus before this Court in present Second Appeal, challenging both the judgments and orders passed by the learned lower Courts below.

9. Heard the learned Counsel Mr. Harshwardhan Karad, appearing for the appellant herein. The learned Counsel submits that both the learned lower Courts below have failed to take into consideration that unregistered sale deed Exh. 65 was admissible for limited and collateral purpose establishing the nature and character of the appellant's possession, which was pursuant to the unregistered sale deed dated 22.06.2011. The learned Counsel for the appellant further submits that the learned lower Courts below had erred in arriving at conclusion that the appellant's possession was permissive

in nature and said finding is arrived at by both the learned lower Courts below, was therefore, perverse and thus, liable to be quashed and set aside.

10. After going through the judgment and order passed by the learned trial Court dated 08.02.2021 and the judgment and order passed by the learned first appellate Court dated 19.01.2026 and after hearing the learned Counsel for the appellant the only substantial question of law involved in the present appeal, is as under :

“Whether the findings arrived at by both the lower Courts below are perverse to the evidence led by the parties on record”.

11. The perusal of the record shows that the plaintiff had examined himself as PW-1, Balu Kasbe is examined as PW-2, the witness on hand loan of Rs. 20,000/- and Shaikh Shaukat Ali, is examined as PW-3, the witness of Grampanchyat record. The plaintiff has further relied on tax receipts, map, ‘Akhiv Patrika’, a copy of assessment register. On the other hand, the defendant has examined only himself and has relied upon documentary evidence Exhibit-65, i.e. unregistered sale deed dated 26.06.2011. The plaintiff had specifically averred in the examination-in-chief that he was doing labour work of bricklaying and he was required to visit the

places, in search of the work. In the year 2011, due to marriage of his niece he had obtained loan of Rs. 20,000/- from the defendant, who was his adjoining neighbour, by handing over him a blank stamp paper of Rs. 100/-, bearing his thumb impression and also handed over the possession of the suit plot as a security for the hand loan, on a condition that upon repayment of the hand loan amount, the possession shall be returned to him. The said version of the plaintiff was corroborated by witness Balu Kasbe PW-2, who was the witness for hand loan of Rs. 20,000/-, which was taken from the defendant. The said PW-2 has corroborated the version of the plaintiff and was a witness to the non judicial stamp paper Exhibit-65. Moreover, witness Mr. Shaukat Ali, PW-3, the Gramsevak of the Grampanchyat, Murud had also corroborated the plaintiff's version that the plot was allotted to the father of the plaintiff. The Grampanchyat record shows mutation entry is taken in the name of father of the defendant, at Serial No. 1867. A true copy of the assessment registered was proved at Exhibit 74 and property card was proved at Exhibit 24 standing in the name of the plaintiff showing his ownership. Thus, the plaintiff Vitthal Poul's testimony was corroborated not only by ocular evidence of PW-2 but also from the documentary evidence led by him. The plaintiff had thus proved that his father was allotted the said plot/land and he is still the owner of the said land.

12. On the other hand, it could be seen that the defendant claimed to have purchased the suit plot from the plaintiff, vide unregistered sale deed Exhibit-65, however, he did not examine any single witness in support of his claim. The defendant had only relied upon unregistered sale deed Exhibit 65 dated 26.06.2011, on which the plaintiff himself admits his own thumb impression and the plaintiff claims to have handed over the said document/ blank stamp paper of Rs. 100/- bearing his signature as security to the hand loan advanced by the defendant.

13. The learned trial Court further relied upon the intimation letter Exhibit – 21 issued by the Naib Tahsildar, thereby stating that the original record of the 'Kabala' i.e. the allotment letter in favour of the father of the plaintiff is not traceable. The non production of said 'Kabala' is not at all harmful to the plaintiff and as such the plaintiff has proved himself to be owner of the said plot through his father.

14. The learned lower Courts below had also arrived at a finding that the possession handed over by the plaintiff to the defendant, is a permissible possession and not to alienate the standing possession from 2011 to 2014. The suit was filed in the year 2014, which is within the limitation. Even if the unregistered sale deed relied upon by the defendant dated 22.06.2011 is taken

into consideration the cause of action as per the plaintiff arose lastly on 20.07.2014, when the defendant has lastly refused to hand over possession and stamp paper to the plaintiff. The suit filed in the year 2014 was thus within limitation.

15. The findings of the learned lower Courts below that the alleged unregistered sale deed Exhibit -65 was written on a stamp paper of Rs. 100/-, is hit by the provisions of Section 17 and 49 of the Registration Act, 1908, which requires registration and execution. The learned lower Courts found that the alleged sale deed which conveyed the title, is not permissible in law for the reason that the said document is not registered and secondly that it was not adequately stamped as required under Section 35 of the Indian Stamp Act. The document which is not adequately stamped is not permissible to be received in evidence for any purpose whatsoever, provided the deficit stamp duty as provided under the provisions of the said Act is paid.

16. The learned lower Courts had found that there was no collateral purpose for the unregistered sale deed and the possession of the defendant was permissive in nature and the same was admitted by the plaintiff. Hence, the lower Courts below found that the defendant has failed to prove that the plaintiff had sold the suit

property to the defendant.

17. The findings arrived at by the lower Courts below do not appear to be perverse as against the evidence brought on record. The substantial question framed herein above, about the perversity of the judgment of the learned lower Courts is therefore, answered in negative. The learned lower Courts below have rightly appreciated the evidence led by the plaintiff which was corroborated by the ocular testimony of PW-2 and PW-3 and the other documentary evidence brought on record. There is no perversity in either of the findings arrived at by the lower Courts below or by the first appellate Court. No other substantial question of law is involved in the present appeal. The appeal is therefore devoid of substance and is hereby dismissed.

18. In view of dismissal of the Second Appeal, pending Civil Application No. 3463 of 2026 is also disposed of.

(MEHROZ K. PATHAN, J.)

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