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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 631 OF 2014
WITH
CIVIL APPLICATION NO. 962 OF 2011**

Pandurang Bhikoba Deshmukh and ... Appellants/Applicant
Anr

vs.

The State of Maharashtra(through ... Respondents
Secretary) and Ors

WITH

INTERIM APPLICATION NO. 592 OF 2026

IN

SECOND APPEAL NO. 631 OF 2014

Pandharinath Bhikoba Deshmukh since ... Applicants
deceased through Lrs

IN THE MATTER BETWEEN

Pandurang Bhikoba Deshmukh and Anr ... Appellants

vs.

The State of Maharashtra(through Secretary) ... Respondents
and Ors

Mr. S. Diwan a/w. Mr. Aadesh Konde Deshmukh for the Appellants.

Mr. D.J. Haldankar, AGP for Respondent-State.

CORAM : GAURI GODSE, J.

DATED : 25th MARCH 2026

ORDER:

1. This second appeal is preferred by the original plaintiffs to challenge the concurrent judgments and decrees dismissing their suit to challenge the notice of eviction issued by respondent nos. 2 and 3 i.e., on behalf of the State Government. The notices under challenge were in the name of plaintiff no.1.

2. Learned counsel for the appellants submits that the appellants had relied upon the registered sale deed executed by the power of attorney holder of the original owner, i.e. predecessor in title of defendant no.4. The registered sale deed was produced on record. He submits that in the absence of any challenge to the sale deed in favour of plaintiff no.1, the title of the plaintiffs in respect of the suit property could not have been disputed. He therefore submits that in the absence of any challenge to the plaintiffs' title document, the suit to challenge the notice of eviction could not have been dismissed. He therefore submits that the second appeal would require consideration on the point that whether the plaintiffs' suit could have been dismissed in the absence of any challenge to the registered sale deed in favour of plaintiff no.1.

3. I have perused the papers of the second appeal and the paper book of the first appeal. The notice under challenge calls upon plaintiff no.1 to show cause as to why the action of eviction

should not be taken on the ground that he was unauthorisedly occupying the premises described in the suit notice. After considering the reply filed by plaintiff no.1, respondent no.3 i.e. the Town Planning Authority and Tahasildar, communicated to plaintiff no.1 that his reply was not acceptable and he should vacate the premises as he has unauthorisedly occupying the same. The suit is filed by the appellants for a declaration that the show cause notice and the letter to vacate the premises is illegal, arbitrary and without jurisdiction. The plaintiffs have not prayed for any declaration of ownership in respect of the premises that are the subject matter of the impugned notice and the impugned letter. The plaintiffs have relied upon the registered sale deed dated 21st September 1978, which is produced on record.

4. I have perused the copy of the sale deed. The sale deed is executed by one Raghunath Rupde as constituted attorney of Shrimant Sadashivrao Raghunathrao Pandit Pantsachiv. The power of attorney is not annexed to the sale deed. There is no dispute that the power of attorney was not produced, even in the suit. Both the courts have considered the documentary as well as oral evidence and disbelieved the plaintiffs' claim of ownership on the suit property. It is held that even the plaintiffs admitted in the cross-

examination that the suit property belongs to the Raja of Bhore, namely Pansachiv, since prior to independence.

5. The admissions also refer that after independence, Bhore State was merged with the dominion of India in the year 1948 under the merger agreement and under Article 3 of the said Merger Agreement, the Ruler(the Raja) became entitled to own use and enjoy all private properties belonging to him on the date of said agreement. The list was prepared and published with reference to the merger agreement. The dispute had arisen regarding the private properties of the Raja and the State. Accordingly, the suit property was made part and parcel of the official residence of the Bhore ruler. All these contentions are raised in the written statement. The said findings are recorded based on the written statement filed by defendant nos. 1 to 3 and the admissions given on behalf of the plaintiffs. It was, however contended on behalf of the appellants that in the absence of the merger documents produced on record, both the courts could not have recorded findings on the title of the suit property that the property belonged to the State Government.

6. From the record, it appears that the plaintiffs claimed to have purchased the suit property, which is known as Ghodyachi Paga, from the Raja of Bhore State. However, in the absence of any

authority or any power of attorney produced on record empowering the person who had signed the sale deed, both the courts refused to accept the plaintiffs' claim of ownership over the suit property.

7. So far as the title of the defendants is concerned, it would not be relevant for this court to consider it in this second appeal, as the burden was on the plaintiffs to prove their right to continue to occupy the property, i.e. the suit property that is the subject matter of the notice and the letter under challenge. The plaintiffs have not prayed for any declaration for valid occupation of the suit property or a valid title. In the absence of any power of attorney entitling the person who signed the sale deed in favour of plaintiff no. 1, the plaintiffs' title over the suit property is rightly not accepted by both the courts. So far as plaintiff no. 2 is concerned, notice is neither issued to plaintiff no.2 nor he claims for ownership over the suit property. The show cause notice to vacate the premises is issued to plaintiff no.1. The sale deed is the only document relied upon by the plaintiffs to challenge the impugned notice and the letter. Thus, in the absence of any valid document of title or any other valid document to continue to hold possession of the suit property, both the courts have rightly refused to grant any relief.

8. In view of the findings of fact on title and no valid source of

possession of the plaintiffs, the concurrent findings recorded by both the courts, in the impugned judgments would not require any interference in this second appeal.

9. The second appeal does not raise any substantial question of law. Hence, the second appeal is dismissed.

10. In view of dismissal of the second appeal, the pending civil application and interim application are disposed of as infructuous.

(GAURI GODSE, J.)