



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

SECOND APPEAL NO.70/2026

Durgabai Uttamrao Thorat Through her Power of Attorney Padmakar Uttamrao Thorat

...Versus...

Laxminarayan Sansthan Achalpur, Amravati Through its President Ratanlal Bhuramal Tambi 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. A.A. Dhawas, Advocate for appellant
Mr. U.J. Deshpande, Advocate for respondent No.8

CORAM : ROHIT W. JOSHI, J.

DATE : 20/02/2026

1. The appellant/original plaintiff has filed the present Second Appeal, challenging the judgment and decree dated 07/09/2026 passed by the Civil Judge, Senior Division, Daryapur in Regular Civil Suit No.37/2012 and the judgment and decree dated 15/04/2023, passed by the District Judge -2 & A.S.J., Achalpur in Regular Civil Appeal No.154/2016.

2. The plaintiff had filed a suit for specific performance of contract against the defendant No.1/Trust as also for declaration and perpetual injunction. The defendant-Trust has filed counterclaim, seeking decree for possession. The suit for specific performance is dismissed and counterclaim for possession is decreed.

3. The agreement is stated to be arrived at on 08/05/1991 and thereafter on 13/11/1992. The plaintiff has

agreed to purchase the suit property, which is an agricultural land for consideration of Rs.30,700/-.

4. Both the learned Courts have held that the agreements of agreement in question are not proved and payment of Rs.20,000/-, as claimed by plaintiff is also not proved. Apart from this, for enforcement of agreements, stated to be arrived at on 08/05/1991 and 13/11/1992, suit for specific performance is filed on 05/01/2012 i.e. after a period of around 20 years.

5. Having perused the reasons recorded by both the learned Courts in dismissing the suit for specific performance, this Court does not deem it appropriate to take any different view of the matter. It will be also pertinent to state that the defendant No.1 is a Public Trust, registered under the Maharashtra Public Trusts Act, 1950 and the Charity Commissioner has already rejected the application for grant of permission to sell the suit property under Section 36 of the Maharashtra Public Trusts Act.

6. In view of above, no fault can be found with the decree, refusing to grant specific performance of contract. As regards decree in the counterclaim filed by the defendants for possession, admittedly, the defendant No.1 is owner of the suit property and permission to alienate the suit property is rejected by the Charity Commissioner. The said order is not challenged by either of the parties. It is, therefore, obvious that the defendant No.1 as an owner of the suit property must be

placed in possession thereof. No fault can therefore be found with the decree relating to possession.

7. No substantial question of law arises for consideration in the Second Appeal. Second Appeal is dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar