

CNR:- MHKO-08000325-2019

Presented by Adv V. B. Patil for day
on 16/7/19

२-६१ राजि नं. २०३/१९
दि:- १६-७-१९

Superintendent
District Court No. 1 &
Gadhinglaj

Daily Register No. 219 / 2019
Appeal filed on 16 / 07 / 2019

Exh. No. 2/B

Regular Civil Appeal No. 29 / 2019

IN THE COURT OF HON'BLE DISTRICT JUDGE-I,
GADHINGLAJ, AT GADHINGLAJ

1. **Shri. Sambhaji Tatoba Kagankar,**
Age 66 years, Occupation Agriculturist
& Business, R/o. Tavarewadi,
Post Majare Karve, Taluka Chandgad,
District Kolhapur. } --- Appellant
(Ori. Plff.)

// V E R S U S //

1. **Deputy Superintendent Land Records**
Chandgad, Taluka Chandgad,
District Kolhapur.
2. **Government of Maharashtra,**
through Collector, Kolhapur
Office of the Collector,
Nagala Park, Kolhapur. } --- Resopndents
(Ori. Defts.)
3. **Shri. Abhijit Vasantao More,**
Age 46 years, Occupation Agriculturist,
R/o. Beside Shrinath Industries,
M.I.D.C. Shinoli Budruk,
Taluka Chandgad, District Kolhapur.

The appellant failed to deposit
paper book chrs. If shows
that appellant is not ready
to conduct appeal. Hence
appeal is dismissed.

Appeal under Section 96 read
with Order 41 Rule 1 and 2 of
the Code of Civil Procedure,
1908

12/7/19

The appellant failed
to pay paper book
charges; hence
bind for disburse
order 5/1/12
1911/12

MAY IT PLEASE HON'BLE COURT

HEREIN, the Appellant abovenamed begs to submit as under :-

(I) That, the Appellant / Original Plaintiff had instituted a suit for Mandatory as well as Perpetual Injunction against present Respondents / Original Defendants, bearing Regular Civil Suit No. 171/2013 in the Court of Hon'ble Civil Judge, Senior Division, Gadhinglaj. The learned Hon'ble Civil Judge, Senior Division, Gadhinglaj dismissing the suit of the present Appellant / Original Plaintiff on dated 07/06/2019.

(II) Being highly aggrieved by the Judgment and Decree passed by the learned Hon'ble Civil Judge, Senior Division, Gadhinglaj (Hereinafter referred as ' learned Civil Judge '), the Appellant prefers this appeal on the following amongst other grounds of objections without prejudice to each other viz.

1. That, the Judgment and Decree is against the law, evidence on record and against the good conscience.
2. That, the impugned Judgment and Decree seems to be passed in mechanical fashion by the learned Civil Judge without giving any attention to the factual matrix of the case and without assessing the technicalities involved in the matter in hand.
3. That, the approach of the learned Civil Judge towards the case in hand is totally prejudicial one.
4. That, the impugned Judgment and Decree is incorrect, illegal and unjustifiable in the eyes of law.
5. That, the learned Civil Judge relied upon the false and vexatious claim of the Respondent.

6. That, the claim of Respondent over the suit property as a co-sharer is against the provisions of law.
7. That, the learned Civil Judge wrongly concluded that the Appellant is not exclusive owner of the suit property.
8. That, the learned Civil Judge to have seen the voluminous documentary evidence produced by the Appellant. The learned Civil Judge overlooked the documentary evidence produced by the Appellant.
9. That, the learned Civil Judge has not at all followed guiding principles of law and judicial discretion is not applied properly. Hence, findings are incorrect.
10. That, the findings and conclusion of the learned Civil Judge on the Issue Nos. 1 to 5 are totally baseless and contrary to the law and evidence.
11. That, the Order under appeal is bad in law, having no correct assessment and evaluation of the documentary and oral evidence on record. Hence, interference by this Court is necessary in the interest of justice.
12. That, the learned Civil Judge ought to have considered the reliable evidence on record. Hence, order under appeal is capricious one.
13. That, the learned Civil Judge has committed a grave mistake in dismissing the suit and passing a Decree in favour of the Respondent. The judicial discretion is not properly exercised by the learned Civil Judge.

14. That, the learned Civil Judge failed to consider the evidence filed by the Appellant. The entire Decree of the learned Civil Judge is one sided and without considering the legal aspects.
15. The impugned Judgment and Decree under appeal is passed on the surmises and on the wrong conclusions drawn relying on unnecessary documents, hence deserves to be set aside.
16. Appreciation of reported case laws is wrong and not applicable to the facts of the present case.
17. All the conclusion drawn by the learned Civil Judge are erroneous and cannot be justified, hence deserves to be set aside.
18. That, the Judgment and Decree suffers from illegality and requires interference at the hands of this Hon'ble Court.
19. That, the Judgment and Decree is passed on 07/06/2019, the Appellant applied for certified copies on 10/06/2019, which he received on 09/07/2019, hence excluding the days of obtaining certified copies, this appeal is well within limitation.
20. The appeal is valued as per valuation made in the suit at Rs. 2,000=00 Ps. and court fee stamp of Rs. 400/- is paid on it.

For these reasons and those that may be urged at the time of arguments, the Appellants humbly pray that;

- (a) this appeal may kindly be allowed.
- (b) the Judgment and Decree passed by learned Hon'ble Civil Judge, Senior Division, Gadhinglaj in Regular Civil Suit No. 171/2013 be set aside by decreeing the suit as prayed for.

(c) any just and proper relief to meet the ends of justice in favour of the Appellant.

Place : Gadhinglaj
Date : 16/07/2019


(Advocate for the Appellant)

“ Drafted and Presented by ”



(M. V. Patil [Kinikar])
Advocate for the Appellant


शुद्ध निश्चित दिवशी अपील न्यासिते.
शुद्ध अपीलस संवाले कोर्ट की हदमा
इपे ४०० रु. आवश्यक कमान न्यासिते.
सा जरीकर आहे शुद्ध अपील निश्चित
दिवशी अपील रजिस्ट्रेशन 25/7/19 को
फाळ करणारा दि १६/७/१९

Superintendent
District Court No. 1 &
Session Court, Gadhinglaj.

शुद्ध निश्चित दिवशी अपील :- 22/2019
मध्ये उच्च अर्ज :- 89/2019 दाखल केला
आहे . तो सोबत जोडला आहे .

दि:- 18/7/2019


18-7-19
(Jr. Clerk)


Supp E. 18/7/19

ORDER

Admit. Issue notice to

Respondent. R10-19-819

(all R & P)



Dt. 20-7-19 ~~Order~~ Dist Judge. Gulbarga

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page]

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page]

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page]