

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.119 OF 1991

1. Sushilabai w/o. Vishnu Powar
Age 47 years, occ. Household
r/o. Shendur, Tal. Kagal,
Dist. Kolhapur
2. Gopal Vishnu Powar
Age 25 years, occ. Education
R/o. Shendur, Taluka Kagal,
Dist. Kolhapur
3. Ashok Vishnu Powar, age 21
R/o. Shendur, Tal. Kagal,
Dist. Kolhapur.

.. Appellants.
(Org. Opponents
Nos. 1 to 3)

V/s

1. Ananda Krishna Bodke
since deceased by his legal
heirs and representatives
- 1a. Jaising Ananda Bodke
age – adult
- 1b. Uday Ananda Bodke
age – adult
- 1c. Smt. Banubai Ananda Bodke
Age adult.

All residing at Shendur, Tal. Kagal

Dist. Kolhapur.

2. Chandar Dattu Kasote
deceased
Age 55, R/o. Shendur,
Tal. Kagal, Dist. Kolhapur,
2a. Namdeo Chandar Kasote
2b. Shashikant Chandar Kasote
Both Kagal, Dist. Kolhapur,

Mr. R.S. Datar, for Appellants.

Mr. P.D. Dalvi, for Respondents No.1(a) to 1(c), 2A & 2B.

Coram : Smt. R.P. SondurBaldota, J.

Date : 05th March, 2015

P.C.

1. This Second Appeal is directed against the concurrent findings of the Courts below on the application filed by original respondents No.1 & 2 under Order 21 Rule 58 of the Code of Civil Procedure for setting aside sale of the property in question in public auction towards the satisfaction of Regular Darkhast No.66 of 1981 for execution of the decree passed in Regular Civil Suit No.92 of 1971. The executing Court by its order dated 1613 of 1985 allowed the application holding that respondent Nos. 1 and 2 are the owners of the property having purchased the same for valuable consideration from Vishnu Balwant Powar, original opponent No.4. The appeal

preferred therefrom being Regular Civil Appeal No.272 of 1985 was dismissed by the District Court by its order dated 16th February, 1990.

2. Appellants had opposed the application alleging that the said deed was bogus and the respondents have no title to the suit property. This claim of the appellants has already been negated with dismissal of the Regular Civil Suit No.116 of 1977 filed by them inter alia to challenge the sale in favour of the respondents. Their appeal to the District Court as well as the Second Appeal to this Court has failed. In the circumstance, their challenge to the impugned orders on the same ground cannot be sustained. Hence, the Second Appeal is dismissed.

(Smt. R.P. SondurBaldota, J.)