

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

**SECOND APPEAL NO.322 OF 2015
ALONGWITH
CIVIL APPLICATION NO.616 OF 2015**

Smt.Khairunbi S. Naikwadi ... Appellant

V/s.

Kisan Rangrao Patil & Ors. ... Respondents

.....
Mr.Manoj Patil, Advocate for the Appellant.

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CORAM : R.K. DESHPANDE, J.

DATED : JULY 21, 2015.

P.C.

The trial Court passed a decree in Regular Civil Suit No.732 of 2012, holding that the plaintiff has established ownership over the suit property on the basis of mortgage deed dated 26th July, 1961 and the defendants are directed to deliver the possession of the suit property to the Plaintiff. This decree passed by the trial Court on 31st October, 2012, was the subject matter of challenge in Regular Civil Appeal No.555 of 2012, which has been dismissed by the Lower Appellate Court on 17th November, 2014. Hence, the Second Appeal by the original defendant against the concurrent findings of fact.

2 The plaintiff has established ownership over the suit property on the basis of mortgage deed dated 26th July, 1961. The defendant resisted the claim on the ground that he is the owner of the suit property, which was not the subject matter of the mortgage deed. The Courts below have recorded the finding that the mortgage deed was in respect of the entire property including the suit property. Once the claim of the defendant for ownership of the suit property is rejected, no substantial question of law arises in respect of decree for possession passed by the trial Court which is confirmed in Appeal. Second Appeal is dismissed.

3 In view of the order passed in Second Appeal, Civil Application No.616 of 2015, does not survive and is disposed of accordingly.

JUDGE