

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.105 OF 2014

Prakash Chintu Botalji

.....Appellant

: V/S :

Sou. Alka Sudam Vaydande
and anr.

.....Respondents

* * * * *

Mr. Satish S. Raut h/f. Mr. Kiran Kumar Phakade, Advocate for the
appellant.

Ms. Tejaswita Musale h/f. Mr. R.S. Kate, Advocate for the respondents.

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

3rd February, 2015.

P.C. :-

1). This Second Appeal challenges the concurrent findings of the Courts below as regards (i) the ownership of the suit truck being truck bearing registration number MTF-8731, and (ii) liability of the parties to pay price of the truck of Rs.80,000/- together with interest thereon at the rate of 6% p.a. to respondent no.1 (original plaintiff). The Courts below have held that, the said truck was owned by respondent no.1 and the appellant herein had illegally sold it to respondent no.2. The truck, ultimately, came to be sold as scrap. Considering the nature of

the suit, the reliefs sought therein, the issues arising from the pleadings, there is no question of law, much less substantial, arising for consideration of the Court. On the basis of the evidence produced by the parties, the Courts below have decided the disputed questions of fact regarding the ownership of the truck and its unauthorised sale by the appellant to respondent no.2. Mr. Raut, learned Advocate appearing for the appellant submits that, respondent no.2, the purchaser, has in his evidence in terms stated that the sale of the truck was infact by respondent no.1 to him. The evidence of respondent no.2 has been discarded by the Courts below because respondent no.2 did not present himself for cross-examination. There is no infirmity whatsoever in the order impugned in the appeal. No substantial question of law arises for consideration of the Court. Hence, the Second Appeal is dismissed.

2). In view of dismissal of the Appeal, Civil Application No. 474 of 2013 does not survive. The same is accordingly disposed off.

(SMT. R.P. SONDURBALDOTA, J)