

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

**SECOND APPEAL NO.320 OF 2015
WITH
CIVIL APPLICATION NO. 722 OF 2015**

Balu Dnyanu Salunkhe	...	Appellant
V/s.		
Arjun Ramchandra Patil & Ors.	...	Respondents

.....

Ms.A.R.S. Baxi, Advocate for the Appellant.
Mr.Ashutosh Kulkarni, Advocate for the Respondents.

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CORAM : RAVI K. DESHPANDE, J.

DATED : JULY 6, 2015.

P.C.

The trial Court dismissed Regular Civil Suit No.62 of 2005 for grant of declaration and permanent injunction restraining the defendants from interfering the possession of the plaintiff over the suit property. The decision of the trial Court on 11th March, 2008 was the subject matter of challenge in Regular Civil Appeal No.165 of 2008 which has been allowed by the Lower Appellate Court on 30th January, 2015. The suit is decreed and the defendants are restrained from obstructing the peaceful possession of the plaintiff over the suit property. The original defendant is therefore before this Court in this Second Appeal.

2 The suit is simpliciter for grant of permanent injunction restraining the defendants from interfering with the possession of the plaintiff over the suit property. The plaintiff produced on record a copy of the sale-deed dated 3rd September, 1992 marked at Exhibit-41/A executed by one Ashok in respect of 6R of land out of survey no.1865 and Gat No.1494. The defendant claimed to be the owner of the suit property on the basis of the sale-deed dated 2nd February, 1993 at Exhibit-45 said to have been executed by one Shivaji, the father of vendor of the plaintiff. The said sale-deed was in respect of 4R of land out of the same survey number and gat number. The dispute before the Courts below was regarding identification of the suit properties.

3 The trial Court has held after taking into consideration the oral and documentary evidence on record that the plaintiff has failed to establish the boundaries of the suit property. Whereas, the Lower Appellate Court after taking into consideration the finding recorded by the trial Court, held that the identification has been established. The Lower Appellate Court has held that the sale-deed at Exhibit-41/A describes the boundaries of the suit property. Whereas, the sale-deed at Exhibit-45 relied upon by the defendant does not give the

boundaries of the property purchased by the defendant. The Lower Appellate Court has taken a possible view of the matter which does not give rise to the substantial question of law. Second Appeal is dismissed.

4 In view of the order passed in Second Appeal, Civil Application No.722 of 2015 is disposed of.

(RAVI K. DESHPANDE, J.)