

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application (CAS) No.1608 of 2012

In

Second Appeal Stamp No.13563 of 2011

(Janardan Laxman Kubal and others v. Anant Ramchandra Kundekar and
others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri A.A. Joshi, Advocate for Applicants/Appellants.

Coram : R.K. Deshpande, J.

Dated : 23rd June, 2015

Regular Civil Suit No.84 of 1996 for grant of perpetual injunction restraining the defendants from disturbing the possession and enjoyment of the plaintiffs in respect of the suit lands bearing Survey No.31, Hissa Nos.1+2+3 and Survey No.32, Hissa No.8 situated at Kasai Dola Marg, District Sindhudurg, has been allowed by the Trial Court on 10-4-2003. The counter-claim of the defendants for declaration that the sale-deed dated 15-12-1972 in respect of Survey No.31, Hissa No.2 is not binding upon them, has been rejected by the Trial Court. The Appellate Court has maintained the decision of the Trial Court and dismissed the appeal on 7-10-2010. Hence, the original defendants are before this Court in this second appeal.

There is a delay of 117 days caused in filing the second appeal. Accordingly, the present civil application is filed for condonation of delay. I have heard the learned counsel for the applicants/appellants on the application for condonation of delay as well as on merits of the matter. The dispute raised in this

second appeal is only in respect of Survey No.31, Hissa No.2. The counter-claim of the appellants/defendants in respect of challenge to the sale-deed dated 15-12-1972 has already been dismissed by the Courts below. The respondents/plaintiffs have established their possession over the suit property, and on that basis the decree for injunction has been passed. It was not the claim of the appellants/defendants that they are the owners of Survey No.31, Hissa No.2. The Courts below have found that the respondents/plaintiffs are in possession of the suit property.

In view of above, no substantial question of law arises in this second appeal. Consequently, the civil application for condonation of delay and the second appeal are dismissed.

Judge.

Lanjewar