

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

SECOND APPEAL NO.372/2013
WITH
CIVIL APPLICATION NO.973/2013

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S. M. Railkar for the Appellant
Mr. S. S. Redekar for the Respondent Nos.1 and 2.

CORAM : K. K. TATED, J.
DATE : OCTOBER 26, 2015

P.C.:

1. Heard. This appeal is preferred by Defendant No.16 to challenge the concurrent findings of facts recorded by the courts below.

2. The learned counsel for the Respondent Nos.1 and 2 original Plaintiff filed Regular Civil Suit No.24/2000 in the court of Civil Judge, Junior Division Savantwadi for declaration that as per the registered sale deed dated 13/08/1930, they have ownership right in respect of the suit property to the extent of 1/3rd share in a property described as "A" and 2/3rd share in property described as "B" in plaint and also an order of injunction restraining the Defendants from

disturbing their peaceful possession. That suit was decreed by the Trial Court on 28/01/2008.

3. Being aggrieved by the said decree, some of the Defendants preferred Regular Civil Appeal No.43/2008. The Appellate Court, by decree dated 13/03/2013 dismissed the appeal. Hence, the Defendant No.16 preferred the Second Appeal.

4. The Second Appeal stood dismissed/withdrawn against Defendant Nos. 4, 5, 8B, 9, 11, 13, 14, 15, 17, 18 and 19.

5. In the present proceedings, considering the judgment and decree passed by both the courts below and the subsequent development that the Second Appeal stood dismissed/ withdrawn against some of the Defendants, I am of the opinion that nothing survives in the Second Appeal because the decree was passed by the Trial Court jointly and severally. Hence, the Second Appeal stands rejected.

6. In view thereof, the Civil Application, if any, stands dismissed as infructuous.

JUDGE