

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

**SECOND APPEAL NO.546 OF 2013
WITH
CIVIL APPLICATION NO.1677 OF 2013**

Sharad Sabaji Kambli	...	Appellant
V/s.		
Ratnaprabhakar Madhusudan Kambli & Ors.	...	Respondents

.....

Mr.S.M. Kazi, Advocate for the Appellant.
Mr.Madhukar Jamdar, Advocate for the Respondents.

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CORAM : R.K. DESHPANDE, J.

DATED : JULY 20, 2015.

P.C.

The trial Court dismissed the suit for grant of simpliciter injunction restraining the defendants from interfering with the possession of the plaintiff over the suit property. The plaintiff had alternatively claimed the decree for possession of the suit property, if it is found that the defendant is in possession of it. The decision of the trial Court delivered on 21st November, 1995 was the subject matter of challenge in the Civil Appeal 1 of 1996 which was dismissed by the Lower Appellate Court which is dismissed on 30th July, 1998. Hence, this Second Appeal against the concurrent finding of fact.

2 The learned counsel appearing for the appellant submits that two questions were answered against the plaintiff by the Courts below holding that (1) the second suit for possession was barred by principle of *res-judicata*; and (2) plaintiff is not found to be in possession of the suit property, and therefore, he is not entitled the relief of injunction. The learned counsel submits that Parvatibai was not party in the earlier suit, however, the Courts below have found that she had no concern with the suit property. The finding of facts on the question of *res-judicata* and possession do not give rise to the substantial question of law. The second appeal is dismissed.

3 Civil Application No.1677 of 2013, for restoration is allowed.

4 By consent, heard the learned counsel on admission of the matter.

JUDGE