

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Second Appeal No.26 of 2014
(Pandharinath Narayan Kondhar v. Dattu Pandharinath Kondhar and others)

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

Shri Samir A. Kumbhkoni, Advocate for Appellant.
Shri Surel S. Shah, Advocate for Respondent.

Coram : R.K. Deshpande, J.

Dated : 7th July, 2015

In the proceedings for mesne profits, registered as M.P. No.03 of 2005, the Trial Court, by its judgment and order dated 10-12-2009, has held that the applicant is entitled to mesne profits for the period from 26-4-1985 to 21-6-2005 at the rate of Rs.2,000/- per annum. The non-applicants preferred Regular Civil Appeal No.9 of 2010, which has been partly allowed by the lower Appellate Court on 10-8-2012, reducing the period from 26-8-1995 to 21-6-2005 and the amount of mesne profits from Rs.2,000/- per annum to Rs.500/- per annum. Hence, the original applicant is before this Court in this second appeal.

The lower Appellate Court has held that the land is parched and non-irrigated, the yield depends upon the rainy season, and the grant of mesne profits at the rate of Rs.2,000/- per annum is found to be excessive. After taking into consideration the oral evidence of the witnesses, 7/12 extracts and the quality of land, the Court has held that the mesne profits at the rate of Rs.500/- per annum will be just and proper. After going through the averments made in the application for mesne profits and the evidence of the applicant, it seems that the applicant himself has

waived his claim from 26-4-1985 to 26-8-1995.

Thus, no substantial question of law arises in this second appeal. The second appeal is dismissed.

Judge.

Lanjewar