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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.7 OF 2011

WITH

CIVIL APPLICATION NO.194 OF 2015

Ramchandra Chiman Bahiram ..Appellant.

V/s.

Guntabai Govinda Gangurde & Ors. ..Respondents.

Mr.Tushar Sonawane for the appellant.

None for the respondents.

CORAM : R.K.DESHPANDE, J.

DATED : 5TH AUGUST, 2015

P.C. :-

1. The trial Court has decided Regular Civil Suit No.68/1997 filed by Kalibai widow of Govinda Gangurde and Regular Civil Suit No.100/2000 filed by Guntabai d/o. Govind Gangurde, in which, the appellant was the common defendant. On 3rd September, 2003 a decree was passed granting declaration that the sale deed bearing No.410/1997 dated 19/22-4-1997 is illegal, sham and bogus and it is not at all binding on the share of Guntabai. The defendant No.1 Ramchandra was restrained from causing any sort of obstruction into the peaceful possession of the plaintiffs Kalibai and Guntabai over the suit

property.

2. The original defendant preferred two separate appeals bearing Civil Appeal Nos.77 and 78 of 2004 challenging the judgment and decree passed in both the suits. The appeals are decided by the common judgment and order dated 12th June, 2007. The lower Appellate Court has maintained the declaration granted by the trial Court that the sale deed bearing No.410/1997 dated 19/22-4-1997 is not binding on the share of Guntabai. Civil Appeal No.77/2004 was dismissed but Civil Appeal No.78/2004 was allowed recording the finding that the defendant Ramchandra is found to be in possession of the suit property. The judgment and decree passed by the trial Court in Regular Civil Suit No.68/1997 and Regular Civil Suit No.100/2000 to the extent of granting permanent injunction restraining the defendant Ramchandra from disturbing the possession of the plaintiffs over the suit property has been dismissed. The appellant in this appeal is the original defendant Ramchandra.

3. The Courts below have found that the original plaintiff Guntabai has established that she is entitled to the share in the suit property and, therefore, the declaration is granted that the sale deed bearing No.410/1997 dated 19/22-4-1997 is not

binding on the share of Guntabai. The finding of fact does not give rise to any substantial question of law.

4. So far as the question of possession is concerned, in both the suits the decree for possession was not claimed and the lower Appellate Court has after recording a finding that the appellant-defendant is found to be in possession, set aside the decree for permanent injunction in both the suits. No substantial question of law arises. The appeal is dismissed.

5. In view of the dismissal of the appeal, the civil application does not survive and the same is also disposed of.

JUDGE