

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

SECOND APPEAL NO.282 OF 2013
ALONGWITH
CIVIL APPLICATION NO.803 OF 2013
IN
SECOND APPEAL NO.282 OF 2013

1. Shri Ananda Laxman Kumbhare
age 50 years, occ. Agriculture
2. Shri Shrimant Laxman Kumbhare
Age 48 years, occ. Agriculture
Both R/o. Jambhulwadi, Tal Kavathe
Mahankal, Dist. Sangli

.. Appellants.
(Org.Plaintiffs)

V/s

Shri Bhagwan Vithu Kumbhare
Age : 52 years, occ. Agriculture
R/o. Jambhulwadi, Tal. Kavathe
Mahankal, Dist. Sangli

.. Respondent.
(Org. Defendant)

Mr. V.S. Talkute i/b Mr. Avinash Ram Balge, for appellants.
Ms. A.R.S. Baxi, for respondent No.1.

Coram : Smt. R.P. SondurBaldota, J.
Date : 03rd March, 2015

P.C.

1. This Second Appeal is directed against the concurrent findings of the Courts below in the dispute reflected in Regular Civil

Suit No.109 of 2002 filed by the appellants.

2. The appellants filed the suit for injunction simplicitor claiming that they are owners of the suit property, as such are in possession. The appellants alleged that the respondents were causing obstruction to their possession and sought relief of permanent injunction to restrain them from obstructing the appellants' possession of the suit property. The Trial Court held that appellants had failed to establish that they are owners of the suit property. It further held that the appellants are not in possession of the suit property and dismissed the suit. Being aggrieved by the order of dismissal of the suit, the appellants preferred Regular Civil Appeal No.219 of 2007 to the District Court. This also came to be dismissed by the order dated 14th December, 2012 thereby confirming the order of the Trial Court.

3. It is obvious from the impugned orders that the findings of the Court below are infact findings of facts which cannot be interfered with in the Second Appeal. However, Mr. Talkute, the learned advocate for the appellants submits that since the suit filed by the appellants was for injunction simplicitor, the Trial Court ought not to have considered the title of the appellants to the suit property

and that it should have restricted itself to the fact of possession of the suit property. There can be no substance in this submission. The appellants have come to the court with a specific case that they are the owners of the suit property and that their possession of the suit property is an incident of their title. This fact has been denied by the respondent. In the circumstances, Trial Court rightly framed issue relating to the title of the appellants over the suit property.

4. There is no substantial question of law involved in the appeal. The concurrent findings of facts by the Courts below cannot be interfered with. Hence, the appeal is dismissed.

5. In view of dismissal of Second Appeal, the Civil Application does not survive and the same is disposed of.

(Smt. R.P. SondurBaldota, J.)