

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

SECOND APPEAL NO. 617 OF 1993

Shevantabai W/o Bhiku Sutar	... Appellants.
V/s.	
Smt. Yashoda W/o Hanmant Sutar	... Respondent

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Mr. Tejpal Ingale for the appellant.

**CORAM : K. K. TATED, J.
DATED : 21/08/2015.**

PC.:

. Heard learned Counsel for the appellant.

2 Today the matter is shown on board for hearing as a part heard matter.

3 Office note shows that the present Second Appeal stands abated against contesting respondent no.1-original defendant no.1 Smt. Yashoda Hanumant Sutar.

4 In the present proceeding, the appellant plaintiff filed Regular Civil Suit no. 45 of 1980 in the Court of Civil Judge, Senior Division, Atpadi for declaration and possession of the suit property on the ground that plaintiffs were the only legal heirs of Bhiku Krishna Sutar. That suit was decreed by the Trial Court on 19.03.1988 holding that the appellants plaintiffs were the owner of the suit property to the extent of 5/8 shares and possession of that share.

5 That decree was challenged by the respondent no.1 original defendant no.1 Yashoda Laxman Sutar by preferring Regular Civil Appeal No. 76 of 1989. That Civil Appeal was allowed by the Appellate Court on 18.12.1992 setting aside the the Judgment and Decree passed by the Trial Court in Regular Civil Suit no. 45 of 1980.

6 Being aggrieved by the decree dated 18.12.1992 passed by the Appellate Court, the Appellants-plaintiffs preferred the present Second Appeal. The Second Appeal stands dismissed against the respondent no.1 only contesting party as per Order dated 14.02.2011 passed by the Registrar (Judicial-I).

7 As the second Appeal stands dismissed against contesting respondent no.1, nothing survives in this Second Appeal. Hence, the same stands dismissed as abated.

8 At this stage, the learned Counsel for the appellants plaintiffs submits that the Regular Darkhast No. 16 of 1975 pending before the Trial Court. It is made clear that the Trial Court to decide the said Dharkhast on its own merits.

(K.K.TATED, J.)