

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.234 OF 2007

(Krishna Laxman Khade (since dead) thr. Lrs. and others Vs. Haribhau Pandurang Jagtap and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's orders.

Shri V.S. Kapse, Advocate for Appellants.
Shri Surel Shah, Advocate for Respondent No.1(a).

CORAM: R.K. DESHPANDE, J.

DATE: 22nd JULY, 2015.

Both the Courts are concurrent in holding that the claim for specific performance of oral agreement of re-conveyance has not been established. The plaintiff entered the witness box and examined attesting witness to the sale-deed of the suit property, which was executed in favour of the defendant with an alleged understanding of re-conveyance of the property upon repayment of the consideration. Apart from the question of admissibility of such evidence under the fourth proviso under Section 92 of the Evidence Act, the Courts below have disbelieved the attesting witness. With the assistance of the learned counsel for the appellant, I have gone through the pleading in the plaint and I do not find specific assertion that the plaintiff had called upon the defendant to re-convey the property with an offer to make the repayment of amount received by way of consideration under the sale-deed in question. Thus, no substantial question of law arises in this second appeal. The second appeal is dismissed.

JUDGE