

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1114 OF 2012

(Shri Shridhar Balkrishna Sawant (deceased) thr. Legal heirs Shri Pratap Shridhar Sawant and others Vs. Shri Balkrishna Sitaram Sawant 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 Amogh Karandikar i/b M/s. Khandeparkar & Associates for the Appellants.

Shri G.J. Sabnis, Advocate for Respondents.

CORAM: R.K. DESHPANDE, J.

DATE: 13th JULY, 2015.

Regular Civil Suit No.25 of 2005 for grant of permanent injunction restraining the defendant from interfering with the possession of the plaintiff over the suit property was dismissed by the trial Court on 29.11.2007. Regular Civil Appeal No.188 of 2007 is dismissed by the Lower Appellate Court on 16.07.2012. Hence, this second appeal of the original plaintiff against the concurrent findings of fact.

The only question which was involved before the courts below was whether the plaintiff has established his possession over the suit property so as to claim order of injunction restraining the defendants from interfering with his possession. Both the courts below have held that one Appa Bapu Sawant was the original tenant and the respondent has established that he is the grand-son of Appa Bapu Sawant. The learned counsel for the appellants submits that receipts vide Exhibits-42 and 43 were produced on record to show that the appellants were in possession of

the suit property. This aspect has been considered by the Lower Appellate Court and the finding is recorded that the appellant has failed to establish the possession over the suit property. The view taken by the Courts below is a possible view on the question of fact which does not give rise to any substantial question of law. The Second Appeal is dismissed.

In view of dismissal of the Second Appeal, Civil Application No.2178 of 2012 does not survive and it accordingly stands disposed of.

JUDGE