

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 9560 OF 2004
IN
SECOND APPEAL NO. 406 OF 2001**

Ananda Budha Koli

...APPLICANT

versus

Namdeo Mango Koli

...RESPONDENT

.....
Mr. R.M. Deshmukh, Advocate for applicant
Mr. A.G. Talhar, Advocate for respondent
.....

CORAM : SUNIL P. DESHMUKH, J.

DATED : 22nd JANUARY, 2016.

Order :-

1. Solitary ground on which review has been sought of, order dated 16-03-2004 dismissing second appeal bearing No. 406 of 2000 is that writ petition bearing No. 4412 of 1998 is pending in this court for final hearing against mutation entry bearing No. 198. So far as claim in this suit for possession by plaintiff is concerned, the same has been decided concurrently by the trial as well as appellate courts holding that the plaintiff is not entitled to possession.

2. Having regard to that the defendant had become owner of the suit property by adverse possession, over and above, trial court appears to have considered legality and validity of mutation entry No. 198 and considered that plaintiff has not been able to prove that entry is null and void. Said finding of trial court is not disturbed by the appellate court.

3. Under the circumstances, it appears to be a remote case, wherein decision under writ petition would affect decision rendered in second appeal. Even otherwise, the decision in second appeal is not challenged on any of the grounds on which review would be made available.

4. In view of the same, review application stands dismissed.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK