

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

*SECOND APPEAL NO. 142 OF 2016
ALONG WITH
CIVIL APPLICATION NO. 222 OF 2016*

Shri Dinkar Lahu Sutar,
R/o. A/p. Koparde, Tal. Karveer,
Dist. Kolhapur

... Appellant/Applicant

v/s

1. Bajirao Vithu Sutar
(since deceased through legal heirs)
1A. Smt.Indubai Bajirao Sutar
1B. Shri Vijay Bajirao Sutar
1C. Shri Ajay Bajirao Sutar
2. Shri Yuvraj Vithu Sutar,
All R/o. Koparde, Tal. Karveer,
Dist. Kolhapur.

... Respondents

Mr.Ruturaj Pawar i/by S.S.Patwardhan for the appellant/applicant.

Mr.Amit Borkar for Resp. Nos.1 to 4.

Coram: N.M. Jamdar, J.

Dated: 26 April 2016

ORAL ORDER:

The Appellant challenges the judgment and order dated 26 March 2009 passed by the Joint Civil Judge, Junior Division, Kolhapur, dismissing the suit filed by the Respondents for possession, and judgment and order passed by the District Judge, Kolhapur, dismissing the appeal filed by the Appellant.

2 The suit was filed by the Respondents for possession of the property in respect of City Survey No.137, situated at Village – Koparde. It is the case of the Respondents that the Appellant, their relative, was allowed to carry on business in the property, on humanitarian ground, however, when Respondents sought the possession from the Appellant from 2008, the Appellant refused to do so. In the suit, the Appellant appeared but did not contest the suit by filing any written statement. The suit was decreed by the learned Civil Judge by judgment and decree dated 26 March 2009. In the appeal, the Appellant sought permission to lead additional evidence, which was granted. The Appellant took a stand that he is owner of the premises based on a sale deed at Exh.45. The Appellate Court, after examination of the sale deed, found that the suit property i.e. City Survey No.137, initially old Survey No.261, was not mentioned in the sale deed. The contention raised by the learned counsel for the Appellant for remand cannot be accepted in view of complete failure to show any assemblance of right in the property. There is no error in the decisions of both the Courts. No substantial question of law arises.

3 The appeal is accordingly dismissed along with the civil application.

(N. M. JAMDAR, J.)