

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

**SECOND APPEAL NO.224 OF 2016
along with
CIVIL APPLICATION NO.224 OF 2016
IN
SECOND APPEAL NO.224 OF 2016**

Suresh Dyandev Chavan .. Appellant/Applicant

Vs.

Vikram Ganpatrao Ghatge .. Respondent

Mr.Kuldeep Nikam for the appellant/applicant.

Mr.Bhushan Walimbe for the respondent.

CORAM : R.D. DHANUKA, J.

DATE : 2nd March 2016

P.C.

. By this second appeal, the appellant (original defendant) has impugned the judgment dated 31st October 2015 passed by the learned District Judge-4, Sangli dismissing the appeal filed by the original defendant and confirming the order and judgment passed by the learned trial Judge on 4th August 2014 inter alia praying for possession and recovery of money against the appellant.

2. Admittedly, the agreement entered into between the parties had expired on 31st May 2008. There was no extension of period of the said agreement in writing as contemplated under the said agreement. It was, however, the case of the defendant that the said agreement was orally extended by the plaintiff. The parties led oral evidence before the learned trial Judge. The learned trial Judge has rendered a finding of fact that the extension was not proved and secondly, no such oral

evidence could be led in support of the plea of oral extension contrary to the terms of the agreement.

3. I have also perused the judgment of the Lower Appellate Court. The Lower Appellate Court has independently rendered a finding of fact that there was no extension of the original agreement. There is no dispute that the separate suit bearing Regular Civil Suit No.14 of 2009 filed by the defendant for injunction against the original plaintiff has been rejected by the trial Court. Appeal filed by the defendant against the said order has been dismissed. The plaintiff has filed the present suit and the appeal after dismissal of the said suit filed by the defendant.

4. The findings rendered by the Courts below are concurrent findings which are not perverse and thus cannot be interfered with under Section 100 of the Code of Civil Procedure, 1908. No substantial question of law has arisen in the second appeal. Appeal is devoid of merits and is accordingly dismissed. In view of dismissal of the appeal, civil application does not survive and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.