

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

***SECOND APPEAL NO.396 OF 2014
WITH
CIVIL APPLICATION NO.937 OF 2014
IN
SECOND APPEAL NO.396 OF 2014***

Pandharinath Jagannath Waghmode ..Appellant

Vs.

Vitthal Tuka Waghmode ..Respondent

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Mr. Milind Deshmukh a/w Mr. Shailesh Chavan for the appellant.
Mr.V.S. Talkute for the respondent.

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***CORAM : N.M. JAMDAR, J.
DATED : 17 MARCH 2016***

P.C.:

. The appellant challenges the judgment and decree passed by the District Judge-I, Malshiras dated 5 February 2014 in Regular Civil Appeal No.4/2011 whereby the learned District Judge dismissed the appeals filed by the appellant challenging the judgment and decree dated 5 January 2011 passed by the 2nd Joint Civil Judge Junior Division Malshiras in Regular Civil Suit No.357/2008.

2. The respondent filed a suit seeking redemption of

mortgaged property i.e. the suit property. According to the respondent, since he was in need of finances, on 26/10/1998 he transferred the suit property in favour of the appellant by way of a registered mortgage deed in lieu of Rs.27,000/-. It was the case of the respondent that even after repaying the loan, the appellant refused to reconvey the property.

3. According to the appellant, the Mortgage Deed dated 26 October 1998 was a Sale deed. Both the Courts examined the Sale Deed exhibited at Exh.28 more particularly clause regarding redemption . This clause is in Marathi and has been reproduced in the judgment of the District Court. I have seen the said clause which clearly mentions that once the amount is repaid, the appellant will reconvey the property.

4. Mr. Deshmukh, the learned counsel for the appellant tried to urge that the document is a Sale Deed. This argument is rightly rejected by both the courts in view of clear recitals in the Deed. No other contention was advanced. No substantial question of law arises. Second Appeal is accordingly dismissed. In view of disposal of the appeal, Civil Application does not survive and stands disposed of.

(N.M. JAMDAR, J.)