

Sequeira

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

SECOND APPEAL NO. 896 OF 2015

Dattu Dhondi Koli.

Since deceased by heirs -

1/1) Shri Ramchandra Dattu Koli & ors. .. Appellants / Applicants

Vs.

Yashwant Shantappa Vathare

Since deceased by his legal heirs -

1A. Surgonda Yashwant Vathare,
Since deceased by his legal heirs -

1A(1) Smt.Chandrabai Surgonda
Vathare & ors. .. Respondents

Ms.A.R.S.Baxi, for Appellants / Applicants.

None for Respondents.

***CORAM : N.M.Jamdar, J.
Tuesday, 19 July 2016.***

P.C. :

Heard learned counsel for the Appellants.

2. The Appellants had raised an obstruction to the Darkhast instituted by the Respondents pursuant to the decree passed in Regular Civil Suit No.98 of 1977. The learned District Judge, Sangli

has held that though there is some mistake in describing Gat No.262 in R.C.S. No.98 of 1977, there is no threat to the Appellants of dispossession pursuant to the Darkhast, as the Appellants have already secured a decree of perpetual injunction against the Respondents. It is informed that the Darkhast proceedings have now been withdrawn therefore, as of today there is nothing left in the present obstructionist proceedings from which the Second Appeal arises. The learned counsel for the Appellants submitted that same position may be repeated if Darkhast proceedings are instituted again and therefore, matter needs to be examined.

3. In the present Appeal, it is not necessary to carry out this exercise. In case Darkhast proceedings are again instituted, in view of the observations made by the learned District Judge in respect of the boundaries, it will be open to the Appellants to take up the point which is sought to be urged in the present Second Appeal in those Darkhast proceedings. No further order is required to be passed in Second Appeal.

4. Second Appeal is accordingly disposed of.

(N.M.Jamdar, J.)