

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

SECOND APPEAL NO.56 OF 2015

Bhiva Hariba Korake .. Appellant
Vs.
Dasharath Hariba Korke & Ors. .. Respondents

Mr.Samir Kumbhakoni for the Appellant.
Mr.Makrand Utagikar for the Respondent nos.1 to 7.

CORAM : R.D. DHANUKA, J.
DATE : 30th August 2016

P.C.

. By this appeal filed under Section 100 of the Code of Civil Procedure, 1908, the appellant has impugned the part of the judgment and order dated 10th April 2014 delivered by the learned District Judge-II, Pandharpur in so far as the claim of the appellant in respect of the right to take water through well situated in Gat No.448/1 is dismissed. By the said judgment and order dated 10th April 2014, the learned appellate Court had declared that the plaintiff has ½ share in Gat No.448/1 and the defendant no.3 has ½ share in that land.

2. In so far as the right to take water through well in Gat No.448/1 is concerned, the appellant (original plaintiff) could not prove his right to take water through well in the said plot. No evidence was led on this issue. Both the Courts, in my view, have rightly rejected the said claim. The findings recorded by the two Courts below are concurrent findings which are not perverse and thus cannot be interfered with by this Court under Section 100 of the Code of Civil Procedure, 1908.

3. Appeal is devoid of merit and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.