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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO.746 OF 2015

Chindhu s/o Tanu Koli (died)
Through its L.Rs.

1. Suresh Chindhu Koli,
Age: 68 years, Occ: Agri.,
2. Chababai Bhagwat Koli,
Age: 83 years, Occ: Nil,
Both R/o. Dhambhurni,
Tq. Yawal, Dist. Jalgaon.
3. Nababai Galu Koli,
Age: 78 years, Occ: Nil,
R/o. Bhadli, Tq. & Dist. Jalgaon.
4. Bebabai Prakash Koli,
Age: 58 years, Occ: Nil,
R/o. Bhusawal, Tq. Bhusawal,
Dist. Jalgaon. ..APPELLANTS

VERSUS

1. Dhanraj Sahebrao Patil,
Age: 53 years, Occ: Agri.,
 2. Kamlakar Sahebrao Patil,
Age: 51 years, Occ: Agri.,
 3. Dinkar Sahebrao Patil,
Age: 48 years, Occ: Agri.,
 4. Balu Sahebrao Patil,
Age: 45 years, Occ: Agri.,
- All R/o. Kingaon, Tal. Yawal,
Dist : Jalgaon. ..RESPONDENTS

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Mr M.V. Nawandar, Advocate for appellants;
Mr P.B. Rakhunde, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 14th JULY, 2017

ORAL ORDER :

The appellants-original plaintiffs filed Regular Civil Suit No. 27 of 1997 for removal of encroachment and injunction based on title.

2. Present respondents-defendants filed written statement at Exhibit-10 and resisted the claim. The respondents denied ownership of the plaintiffs over the suit property.

3. The trial Court then considered entitlement of the appellants for the claim for order of removal of encroachment and injunction and then proceeded to record findings that, appellants-plaintiffs had not established title to the suit property. In spite of same, the trial Court proceeded to decree the suit in favour of present appellants by recording findings that

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the respondents have not disputed dimension of the suit property.

4. The lower appellate Court, while dealing with the appeal of the respondents being Regular Civil Appeal No.464 of 2014 allowed the same. The lower appellate Court has analyzed the evidence afresh and proceeded to note that though geographical situation of the suit property is not in dispute but ownership of the present appellants over the suit property was disputed. Lower appellate Court then appreciated documentary and oral evidence and noticed that in absence of title deed, plaintiffs-appellants have failed to establish their title to the suit property for claiming relief of injunction and removal of encroachment.

5. Apart from above, it is admitted fact on record that present appellants-plaintiffs had not produced title deed on record. In absence of title deed, present appellants established their title

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to the suit property while claiming such reliefs, in my opinion, lower appellate Court has rightly allowed the appeal and dismissed the suit.

6. In my opinion, no substantial question of law is involved in the present appeal. As such, second appeal fails, stands dismissed.

(N.W. SAMBRE, J.)

Tupe