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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

***SECOND APPEAL NO.685 OF 2014
WITH
CIVIL APPLICATION NO.1600 OF 2014***

Rohit Prakash Kulkarni ..Appellant.
V/s.
Shashikant Narayan Kulkarni & Ors. ..Respondents.

Mr.Shriram S.Chaudhari for the appellant.

Mr.Parag Moreshwar Tilak for respondent Nos.1 to 3.

CORAM: NITIN W.SAMBRE, J.

DATE : DECEMBER 6, 2017

PC.:-

This appeal is by the original plaintiff, who filed a suit being Regular Civil Suit No.171/200 for declaration and injunction claiming in the ancestral property viz. Gat No.290 which was further divided into Gat Nos.290/1 to 290/4 in which the appellant / plaintiff has 1/4 share in the well water.

2. Both the Courts below held that the appellant is not entitled for the relief claimed, as such this Second Appeal. The

question of law that is sought to be agitated by the appellant is, once the appellant claims that there exists a well the issue is, whether there exists a well and not whether there exists a right in the well water.

3. So far as such submissions are concerned, it is to be noted that both the Courts below have appreciated the factual matrix brought on record and recorded a finding of fact as regards the existence of a well against the appellant.

4. Apart from the above, the Mutation Entry which forms to be the basis for proving the right of well water was also set aside by the Tahsildar, which was never questioned by the appellant.

5. In the said backdrop, the appeal lacks merits and no substantial question of law arises in the matter. Hence the appeal is dismissed.

6. In view of the dismissal of the appeal, the civil application also stands dismissed.

(NITIN W.SAMBRE, J.)