

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

**CIVIL APPLICATION (ST) NO. 17617 OF 2017
IN
SECOND APPEAL NO. 911 OF 2015**

Sohail Ah. Nihal Ah. and others	...	Applicants
In the matter between		
Mohd. Vazir Sultan and others	...	Appellants
Versus		
Sou. Nirmala Ramesh Sonar		
since deceased by legal heirs and others	...	Respondents

Mr.Nilesh Gala i/b. Manoj Harit & Co. for the Applicants.
Mr.N.R. Bubna for the Original Appellant.
Mr.M.N. Sandhyanshiv for the original Respondent Nos.1-A to 1-F and 2 to 4.

CORAM: S.J. KATHAWALLA, J.

DATE: 5th JULY, 2017

P.C.:

1. On 3rd May, 2016, the parties to the above Second Appeal filed Consent Terms before this Court and requested the Court to take the same on record and dispose off the Second Appeal in terms of the Consent Terms. Accordingly, this Court took the Consent Terms on record and by an order dated 3rd May, 2016 disposed off the Second Appeal in terms of the Consent Terms.
2. The Applicants have now taken out the above Civil Application for setting aside of the said Consent Terms on the ground that the parties thereto have included

the property of the Applicant and have thereby usurped the Applicant's property. This Court called upon the Advocate for the Applicants to point out the paragraph in the Consent Terms whereby the parties in the Second Appeal have appropriated or usurped the property of the Applicants.

3. In response, the Advocate for the Appellants has drawn my attention to paragraph No.4 of the Consent Terms, which reads as under :

“4. The land lady Manglabai Subhash Sonar and others had long back sold out the suit land by Registered Sale deed Instruments No.3273/94, 3274/94 dated 20/9/94 and sale deed Instruments No.3351/94 and 3352/94 dated 29/9/94 to the appellants and the said sale deeds are accepted and made absolute by all the parties to the proceedings. The possession of the suit land is with the appellants from the date of respective sale deeds and the same is hereby made absolute and confirmed and it is hereby agreed by all the parties that the property was sold out to the appellants and they are bonafide purchasers, owner and possessor of the suit land on the basis of the four sale deeds executed between the appellants and the Respondents.”

2. On a further query by this Court, as to whether any registered sale deed mentioned in paragraph No.4 includes any land belonging to the Applicants, the answer given is in the negative. Since the Applicants are unable to show from the Consent Terms that the property belonging to them is apportioned/usurped/transferred by the Appellants and the Respondents in the Second Appeal, the question of entertaining the above Civil Application does not

arise. The above Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)