FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.776 OF 2016
WITH
CIVIL APPLICATION NO.1548 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. Ranjeet Patil for the appellant

Mrs.Nirmala Bhosale for the respondent no.1

Mr.Hrishikesh P. Giri for the respondent nos.8 and 9

Mr.S.R.Chopade i/b Mr.Prashant S. Hagare for the respondent no.7

CORAM : K. K. TATED, J.
DATE : DECEMBER 18, 2017

P.C.:

1. Heard.

2. By this Second Appeal original defendant nos.1 and 2 are challenging the concurrent finding of fact recorded by the courts below.

3. It is to be noted that in the present proceedings, Respondent no.1 original plaintiff filed Regular Civil Suit No. 436 of 2000 (Old Special Civil Suit No.242 of 1998) before the Joint Civil Judge, Junior Division, Tasgaon for partition and separate possession. In Trial Court, the

appellant original defendant nos.1 and 2 admitted the relationship of plaintiff and defendant as brother and sister. Defendant nos.1 and 2 raised objection only in respect of property bearing Gut No.2367.

4. It was the case of the defendant nos.1 and 2 that said property Block No.2637 was gifted by their father in their favour and to that effect mutation entry No.6733 was effected at Revenue Department. It was the case of the appellant original defendant nos.1 and 2 that these facts were not considered by both the courts below. Hence, they preferred the present Second Appeal.

5. It is to be noted that Trial Court in paragraph 23 of the impugned judgment specifically recorded the fact that the appellant original defendant nos.1 and 2 failed and neglected to place on record any documentary evidence to the fact that said property gut no.2637 was gifted by their father to them. It was specifically recorded by Trial Court that defendant nos.1 and 2 failed to place on record any written gift deed and or partition deed to that effect. Even the appellate court also recorded the same.

6. At the time of hearing of the Second Appeal though objection raised by the advocate for appellant on the ground of gift deed, but he failed

to produce any documentary evidence to that effect.

7. Considering these facts, that there is no evidence about the gift deed and the relationship of plaintiff and defendant is admitted by both the parties, I do not find any reason to interfere with the concurrent finding of fact recorded by both the courts below.

8. No substantial question of law arose for determination.

9. Second Appeal as well as Civil Application stands rejected.

(K.K.TATED, J.)