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

**901 SECOND APPEAL NO.835 OF 2016
WITH
CIVIL APPLICATION NO. 15616 OF 2016
IN
SECOND APPEAL NO.835 OF 2016**

Shivram Kisan Tayade

... Appellant
(Orig. Defendant)

VERSUS

Sau. Usha Ashok Kothari

... Respondent
(Orig. Plaintiff)

...
Mr. Girish V. Wani, Advocate for the Appellant
...

**CORAM : A. M. DHAVALA, J.
DATED : 12th December, 2018**

ORAL ORDER :-

1 Heard learned counsel Mr. Girish V. Wani for the Appellant. This is the Defendant's appeal against the concurrent findings in Special Civil Suit No. 67 of 1996 delivered by Civil Judge, Senior Division, Amalner on 26.10.1999 and in the First Appeal, RCA No.54 of 2012 delivered by Ad-hoc District Judge-1, Amalner on 05.02.2016.

2 By the above judgments, the suit filed by the respondent for recovery of Rs.2,98,253.50 with future interest at the rate of 6% per annum from the date of the suit was decreed with costs and it was confirmed. The plaintiff states that on the request of the

Defendant/Appellant, in October 1994, her husband has carried out survey of the Defendant's land at Fukani and thereafter, provided Drip Irrigation System work of Rs.2,98,253/- on credit. The said amount was not paid and, therefore, the suit was filed. The Defendant/Appellant has denied that he had any land in Fukani and that the Plaintiff had supplied Drip Irrigation System as claimed. The judgments and the evidence on record disclose that the Plaintiff has examined herself, her husband and her two servants. They have produced delivery challan, and receipts. The Defendant has admitted in the written statement that he made inquiry with the plaintiff regarding the Drip Irrigation System. He has also admitted that he has a land in his cultivation though he is not owner thereof. Both the Courts below believed the plaintiff and her witness that the delivery challans were signed by the Defendant. There is also evidence that one receipt Exhibit-23 was signed by the Defendant's son's father-in-law (i.e. Ramkrishna Appa) and other by his son. Though the defendant has denied that Ramkrishna Appa was his relative, when the plaintiff deposed about this facts, there is no cross-examination denying that the receipts were signed by Defendant No.1's son and his son's father-in-law. Both the Courts below also rightly observed that the Defendant has stated lies and has denied even the contents of his written statement. He claimed that he was not knowing the plaintiff at all but his written statement shows that he had gone to the plaintiff for purchase of Drip Irrigation System.

3 Whether the system was provided by the plaintiff to the defendant or not is a finding of fact. Both the Courts have given concurrent findings. Learned counsel Mr. Wani submitted that the documents were not signed by the Defendant and the Courts below showed perversity in accepting the case of the plaintiff in absence of documents. However, the evidence shows that the delivery challans were signed by the Defendant though he has denied it, the Courts have believed that those were signed by him. Besides, the receipts are signed by Defendant No.1's son and his father-in-law. Considering the concurrent finding and fact, I find there is a little scope for interference. No perversity has been shown. Relevant and important material is not shown to have been ignored. In the light of this fact, as held in the case of *Ishwar Dass Vs. Sohan Lal*, reported in *AIR 2000 SC 426*, I find that there is no scope for interference.

4 Hence, the Appeal is dismissed in limine.

5 The Civil Application, if any, stand disposed of.

[A. M. DHAVAL, J.]

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