

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL (STAMP) NO.13334 OF 2018
ALONG WITH
CIVIL APPLICATION NO.524 OF 2018

Vijaya Sunil Sankpal	 Appellant-Applicant
V/s.	
Suhas Shivram Vaidya & Anr.	 Respondents

Ms. Sandhya Nanavare for the Appellant-Applicant.

Mr. Prasad Dani, Senior Counsel, a/w. Mr. Kuldeep Nikam, for Respondent No.1

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 12TH JUNE, 2018.

P.C. :

1. Heard Mr. Nanavare, learned counsel for the Appellant, and Mr. Dani, learned Senior Counsel for Respondent No.1.

2. This Second Appeal is preferred against the 'Judgment and Decree' dated 26th February 2018 passed by the District Judge-3, Satara, thereby dismissing the First Appeal bearing Regular Civil Appeal No.127 of 2015. The said Appeal was preferred against the 'Judgment and Decree' dated 18th April 2015 passed by the Civil Judge, Junior Division, Satara in Regular Civil Suit No.344 of 2013.

3. The said Suit was filed by Respondent No.1 herein for recovery of possession of the suit premises on the ground that the Appellant is in possession thereof as a 'gratuitous licensee' and on termination of the said license, by notice dated 18th April 2013, the Appellant is not entitled to remain in possession thereof. The Suit was decreed by the Trial Court and, as stated above, the first Appellate Court has dismissed the Appeal preferred against the said 'Judgment and Decree'.

4. The Trial Court and the first Appellate Court, both, have considered various admissions given by the Appellant in her cross-examination that, the suit flat was given to her husband for temporary use without consideration. She has further admitted that, there is no agreement in writing in respect of tenancy between them. She has no rent note or the receipt. Moreover, though she has stated that she was paying monthly rent through Sanjay Joshi, the said witness was not examined in the Trial Court. In view of these clear admissions given by the Appellant herself in the cross-examination, her contention that she is in possession as a 'tenant' is rightly rejected by, both, the Trial Court and the first Appellate Court.

5. In the present Second Appeal, therefore, there is neither the question of re-appreciation of evidence on record, so as to test the

finding of fact recorded by the Trial Court and confirmed by the Appellate Court. No substantial question of law has been raised or argued or found to be involved in the present Second Appeal. Even in respect of the deficit Court Fee Stamps, as directed by the first Appellate Court, Respondent No.1 has deposited the same in the Trial Court.

6. As a result, the Second Appeal holds no merits, even for admission; hence, stands dismissed.

7. In view of the above, Civil Application No.524 of 2018, pending in the Second Appeal, does not survive and the same is disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]