

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

SECOND APPEAL NO.735 OF 2016

Smt. Surekha Suresh Salagare & Ors.

....Appellants

V/s.

Shri. Gajanan Kallappa Sutar & Ors.

....Respondents

Ms Anjali Shiledar Baxi for the Appellants.

CORAM : M.S. SONAK, J.

DATE : 22nd FEBRUARY, 2018

P.C.

1. Heard Ms Baxi, the learned counsel for the appellants.
2. Ms Baxi submits that the substantial question of law has been framed under clauses 1, 2 and 6 of the memo of appeal arises in this matter. She submits that the Trial Court in appeal had failed to appreciate that the Registered Sale Deed dated 07.07.1987 executed by Shri. Shiraswade in favour of the appellant forms more than sufficient proof to prove both the title as well as the possession of the appellants. She submits that since this possession was admitted by the respondents, the two courts, erred in ignoring such evidence and non-suiting the appellants-plaintiffs.
3. Upon due consideration of the submissions of Ms Baxi, it

cannot be said that the question referred by her are any substantial questions of law. At the highest these are matters of appreciation of facts. No perversity as such, has been established in the record of findings of fact. In fact, the Appellate Court, has taken cognizance of very important fact/circumstance in relation to Regular Civil Suit No.196/1998 which had been instituted by the respondents-defendants against the appellants seeking declaration as to their title and possession in respect of the suit property.

4. The record indicates that the said suit was infact decreed. This matter was adjourned so as to enable the learned counsel for the appellants to take instructions. It is reported that no appeal was instituted against the judgment and order in Regular Suit No.196/1998. If this be the position, then, the dismissal of the suit and appeal by the Trial Court and the Appellate Court respectively cannot be faulted. Since, no substantial question of law is involved in this appeal, the same, is liable to be dismissed and is hereby dismissed.

(M.S. SONAK, J.)