

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

**SECOND APPEAL NO. 755 OF 2017
WITH
CIVIL APPLICATION NO. 1124 OF 2017**

Dattatray Dhondiram Patil & Anr.	...	Appellants
V/s.		
Chandrakant Ganpati Patil & Ors.	...	Respondents

- Mr.Bhooshan R. Mandlik for Appellants.
- Mr.Utkarsh Desai i/b. Mr.Prashant Bhavake for Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 4th JUNE, 2018.

P.C. :

1] Heard learned counsel for the Appellants and the Respondents.

2] This Second Appeal is preferred against the concurrent finding of fact recorded by the Trial Court and the Appellate Court respectively in their judgment and decree, dated 10/11/2011 in Regular Civil Suit No.103 of 2008 and dated 29/06/2017 in Regular Civil Appeal No.372 of 2011, by the Court of Civil Judge Junior Division, Gargoti and District Judge-1, Kolhapur, respectively.

3] The case of the Appellants is that, they are the original Plaintiffs and have lost in the Trial Court and the First Appellate Court. They have filed suit for injunction restraining the Respondents from causing obstruction to their possession. They are in possession of the suit land on the basis of the registered sale-deed dated 01/02/1987. Both the Trial Court and the Appellate Court have come to the conclusion that the suit land is Tenure land and therefore, without permission of the competent authority, the sale-deed could not have been executed. Both the Courts have also held that, even if the name of the Appellants are appearing in the cultivation column of the 7/12 extract of the suit land, it nowhere states that the said possession is that of a tenant. Moreover, the Appellants have also failed to prove the registered sale-deed on the basis of which they claim to have become the owners of the suit land.

4] No perversity or illegality is pointed out in the finding of fact recorded by the Trial Court and confirmed by the First Appellate Court. In such situation, when the Appellants have not claimed the tenancy over the suit land by approaching appropriate authority and have also failed to prove the legality and validity of the sale-deed, then no fault can be found in the judgments and orders of the Trial Court and the Appellate Court, if both of them have come to dismiss of the

suit of the Appellants.

5] Hence, as no substantial question of law is involved, this Second Appeal stands dismissed.

6] In view of dismissal of the Second Appeal, nothing survives in the Civil Application and hence, it also stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]