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

SECOND APPEAL NO.815 OF 2015

Dnyandeo Ramkrishna Kale	...	Appellant.
V/s.		
Vijaykumar Ramkrishna		
Kale and anr	...	Respondents

Mr. Samit Kumbhkoni, for Appellant.
Mr. Prasad P. Kulkarni, for respondent Nos. 1 & 2.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J

DATE : 25th JUNE, 2018.

P.C. :

- 1] Heard learned counsel for the appellant and respondent.
- 2] The judgment and decree of the appellate Court dated 21.6.2014, passed by District Judge-2, Solapur is challenged in this second Appeal.
- 3] The said Appeal was preferred against the judgment and decree dated 26.7.2011, passed by II nd Joint Civil Judge Senior Division, Solapur, thereby dismissing the R.C.S. No.703 of 2008.
- 4] The said suit was filed by the present appellant for declaration that he is having preferential right to purchase the suit land and the sale deed dated 10.7.2008 executed by respondent No.1

in favour of respondent No.2, in respect of plot No.45/4 admeasuring 2 H. 10 R, situate at village Kavthe, Taluka North Solapur, be declared as null and void.

5] The trial Court, on appreciation of pleadings and the evidence on record, came to the conclusion that the appellant has failed to prove that he is having any such preferential right to purchase the suit land. The claim of the appellant was based on the count that he has agreed to purchase the said land by paying an amount of Rs.1100/- on 26.01.2008 and Rs.25,000/- on 25.03.2008. Thus, totally an amount of Rs.26,100/- was paid to respondent No.1.

6] The trial Court and the Appellate Court, both found that the appellant has failed to prove the oral agreement and on the basis of the same, his preferential right to purchase the suit land can't be established. The trial Court also found that appellant has not given proper description of the land admeasuring 2 H 10 R. He has not even mentioned boundaries of land which he has agreed to purchase. The trial Court and the Appellate Court also found that in the absence of any such evidence proving that the appellant is having any preferential right to purchase the suit lands as stated, his suit for declaration or preferential right cannot be granted.

7] In view thereof in the concurrent finding of fact, as arrived at by both the Courts below, this Court cannot disturb the

same in the Second Appeal.

8] The Second Appeal, therefore, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]