

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

**SECOND APPEAL (ST) NO.35370 OF 2017
WITH
CIVIL APPLICATION (ST) NO.4581 OF 2018
IN
SECOND APPEAL (ST) NO.35370 OF 2017**

Mrs. Shiubai Bhau Mane and Ors. ...Appellant

vs.

Shri Maruti Dikappa Kurne & Ors. ...Respondent

Mr. Manoj A. Patil for the Applicant in CAS 761/2018 and CAS 281/2018.
Mr. Sanjeevkumar B. Deore i/b A.J. Law & Associates for the appellant in
SA 35370 and 35376/2018 and for the Respondents in CAS 761/2018 in
SA 7330/2018.

**CORAM : A. M. DHAVALÉ, J.
DATE : 3rd OCTOBER 2018.**

P.C.:

. Defendant No.2 has executed sale deed of the suit land in favour of the defendant No.1 in 1996. The son of defendant No.2 filed Regular Civil Suit claiming that the sale deed was not binding upon his share and for partition and separation of his share. He had joined Maruti Dikappa Kurne the purchaser as defendant No.1, father, mother, sisters and three brothers as the defendants. All the three brothers appeared in the Trial Court but did not file written statement. It is also submitted that they had signed the sale deed executed by the defendant No.2 in favour of defendant No.1. Defendant Nos.7 to 9 have not filed any claim for declaration that the sale deed in favour of the defendant No.1 was not binding to the extent of their share. They had not even filed written statement nor claimed that the sale deed was not binding to the extent of their shares.

2. In the situation their cross objections before the First Appellate

Court were not tenable as the Trial Court was not obliged to give any relief in absence of any claim by them. It is axiomatic, when they had signed the sale deed, they had no right to challenge the same after 14 years.

3. Considering the fact, no substantial question of law is involved in respect of dismissal of cross objections filed by them. Hence, the Second Appeal stands dismissed in limine. Issue Court fee refund as per rules. The Civil Application does not survive.

(A. M. DHAVAL, J.)