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

*SECOND APPEAL NO. 814 OF 2015
WITH
CIVIL APPLICATION NO. 1725 OF 2015*

Bhaskar Rambhau Lokhande & Anr. ... Appellants

V/s.

Parshuram Kondaji Kirkade & Anr. ... Respondents

Mr. Sham Walve and Swapnil Walve for Appellants.

*CORAM : N. M. Jamdar, J.
DATE : 16 January, 2018.*

ORAL ORDER

. The Appellants/Plaintiffs have filed this Second Appeal challenging the concurrent judgment and orders of Civil Judge, Junior Division, Nashik Road and District Court, Nashik dismissing the Regular Civil Suit No. 70 of 2005 filed by the Appellants for injunction and the Regular Civil Appeal No. 200 of 2011. Both the courts concurrently found that the Appellants could not prove their

possession over the suit property, and therefore, declined to grant the relief of injunction to the Appellants.

2. The learned Counsel for the Appellants contended that the Respondents have not been able to prove their case of being tenants. This submission cannot be accepted. It is the Appellants who have filed the suit for injunction based on their possession, and therefore, it is for the Appellants to prove their possession. Sole reliance is placed on Sale Deed dated 14th August, 2003. Both the courts have considered the implication of the Sale Deed and found that the Appellants were unable to produce reliable evidence that the possession receipt was executed and possession was handed over. The Appellants did not produce any electricity bills or such other evidence to demonstrate that they were cultivating the land. They were unable to state the details of neighbouring houses and the location of the adjoining property. They could not give particulars of the locality. Even the vendor of the Appellants could not state as regard the possession of the suit property. After considering this evidence, both the Courts have held that the Appellants are not in possession.

3. The Appeal involves purely question of facts. No substantial question of law arises. Second Appeal is accordingly dismissed.

4. As the Second Appeal is dismissed, nothing survives in Civil Application. Hence, the Civil Application stands disposed of accordingly.

(N.M. Jamdar, J.)