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

**SECOND APPEAL NO.351 OF 2016
WITH
CIVIL APPLICATION NO.680 OF 2016
IN
SECOND APPEAL NO.351 OF 2016**

Chandrakant Sadu Joshi and ors ... Appellants.
V/s.

Manji Shankar Goiknane and ors ... Respondents.

Mr. Swapnil V. Walve i/by Mr. Sham V. Walve, for
Appellants.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 5th JUNE, 2018.

P.C. :

1] Heard learned counsel for the appellants.

2] The suit filed by the appellants against respondents for specific performance of the agreement dated 6.2.1974, came to be dismissed by the trial Court, on the sole ground that the agreement is barred in view of the provisions of Bombay Prevention of the Fragmentation and Consolidation of Land Holdings Act, 1947. This finding of the trial Court is confirmed by the Appellate Court, considering the evidence on record clearly proving that both the survey numbers in respect of which agreement of sale speaks about, were fragments and there was entry to that effect in "other rights

column". It was also considered that respondent original vendor had accepted the liability to delete the said entry. However, the said entry was not deleted. Despite that no efforts were made to obtain permission from the competent authority for purchase of fragment.

3] In view thereof, when both the Courts have arrived at concurrent finding that the the agreement itself is barred in view of provisions of Bombay Prevention of the Fragmentation and Consolidation of Land Holdings Act, 1947 and this finding is based on the appreciation of documentary and oral evidence on record, no substantial question of law is involved in this appeal.

4] The appeal, therefore, stands dismissed.

5] In view of dismissal of appeal, Civil Application No.680 of 2016 does not survive and the same is disposed of accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]