

JPP

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

SECOND APPEAL NO. 114 OF 2016

Mr. Hiralal Tikaram Chavan
(since deceased) through L.Rs.

Mrs. Usha Hiralal Dalwale – Chavan & Ors. ... Appellants.

V/s.

Mrs. Kamal Shankar Dalwale – Chavan & Ors. ... Respondents.

Mr. S.R. Page for the Appellants.

CORAM : N.M. Jamdar, J.

DATE : 17 January, 2018.

Oral Order :-

The Appellants – Original Plaintiffs have challenged the dismissal of their suit and the First Appeal filed for recovery of possession of the suit premises from the Respondents – Defendants on the basis of their title.

2. When the suit was filed by the Appellants for recovery of the suit property which is CTS No. 619 situated at Ganesh Peth, Pune, it was resisted by the Respondent – Defendant contending that the property is a joint family property and not the property of the Plaintiffs alone. The Appellant – Plaintiff sought to trace their

title through a Will stated to be executed by Sakkarbai Kisan in the year 1948. Once the Appellants were tracing their title based on the Will, it was incumbent upon them to produce the same or at least establish its existence and recitals by leading cogent evidence.

3. Both the Courts have rightly held that mere entries in the revenue record made pursuant to the Will will not confer the title. When the Appellants did not produce the title deed itself and could not show that they were exclusive owners of the suit property, it cannot be said that there was any perversity committed by both the Court in holding against the Appellants.

4. Therefore, no substantial question of law involved in this Appeal. The Second Appeal is dismissed.

(N.M. Jamdar, J.)