

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

**SECOND APPEAL (ST) NO.35376 OF 2017
WITH
CIVIL APPLICATION (ST) NO.1248 OF 2018
IN
SECOND APPEAL (ST) NO.35376 OF 2017**

Mr. Goutam Bhau Mane & Ors.

...Appellants

vs.

Shri Maruti Dinkappa Kurne & Ors.

...Respondents

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. DHAVALA, J.

DATE : 3rd OCTOBER 2018.

P.C.:

. Defendant No.2 executed sale deed in favour of defendant No.1 in respect of said land in 1996. The same was challenged by the son of defendant No.2 by name Sanjay by Regular Civil Suit No.6/2010. The Trial Court decreed the suit with costs and declared that decree was void to the extent of plaintiff's 1/9th share. Present appellants are wife and three daughters of defendant No.2. They did not appear in the Trial Court nor filed any suit for claiming any declaration that sale in favour of Defendant No.1 was not binding to the extent of their share.

2. In appeal filed by defendant No.1 they have filed cross objections. The said cross objections came to be dismissed which is challenged by way of present Second Appeal. The defendant Nos.3 to 5 had not made any claim against the defendant Nos.1 and 2. They could have made claim within limitation.

3. In such situation, the Trial Court was not obliged to grant them any relief. The cross objection itself was not maintainable and the dismissal will not raise any substantial question of law. The Second Appeal is thus dismissed in limine. Issue court fee refund to the appellant as per rules. The Civil Application does not survive.

(A. M. DHAVAL, J.)