

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 714 OF 2014

Shri. Vasant Maruti Lahigade

.....Appellant
(Orig. defendant)

V/s.

Shri. Ganpati Appa Jankar

....Respondent
(Orig. Plaintiff)

* * * *

Mr. Umesh R. Mankapure, Advocate for the appellant

Mr. G.H. Keluskar, Advocate for respondents no.1, 3, 4, 5A
and B.

CORAM : SANDEEP K. SHINDE, J.

Monday, 25th February, 2019.

P.C. :

1. Heard learned Counsel for the appellant.
2. The parties to the suit are referred to as plaintiff
and defendant as per their status in the plaint.
3. This Appeal is preferred by the defendant.
Regular Civil Suit No. 364 of 1997 was filed for the

redemption of mortgage. The suit was decreed and the defendant was directed to redeem the mortgage, handover the possession and accept the mortgage money from the plaintiff. Against this decree, Regular Civil Appeal was preferred by the defendant. However, it met with the same fate. It is against this judgment and decree in Regular Civil Appeal No. 27 of 2008 passed by the District Judge-II, Islampur, this Appeal is preferred.

4. Both the Courts below have rendered a finding of fact that the plaintiff has proved that he had mortgaged the suit land to the defendant for Rs.20,000/- in terms of the document dated 21st September, 1982 and that it was a “mortgage by a conditional sale”. The plaintiff had also examined the scribe and proved the mortgage document. The evidence shows the defendant did not respond to the said notice issued by the plaintiff before instituting suit, for accepting the mortgage money. It appears the defendant did not lead evidence.

5. The findings recorded by the Courts below are essentially the findings of facts which are consistent with

the evidence on record. Thus, the findings are not perverse.

6. In my view, the Appeal does not give rise to any substantial question of law. The Appeal is dismissed.

7. In view of dismissal of Appeal, Civil Application No. 1660 of 2014 does not survive. The same is accordingly disposed of.

(SANDEEP K. SHINDE, J)