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

SECOND APPEAL NO.124 OF 1995

Gulabrao Vishwas Desai	... Appellant
Vs.	
Bhau Dhondi Desai, since deceased	
By His Lrs.and Ors.	... Respondents

Mr. V.S. Gokhale for the Appellant.
Mr. Saurabh S. Kurade for the Respondent Nos.1 to 4.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 29th JANUARY 2020.

P.C.:

1 By order dated 9th January 2020 the second appeal was allowed. However, inadvertently it has not been stated that a decree be drawn according. In view of the same, order needs to be modified as follows :-

ORDER

- (i) The second appeal is allowed;
- (ii) The judgment and order dated 3rd August 1988 passed by the learned Civil Judge, Junior Division, Ajara in Regular Civil Suit No.33 of 1982 confirmed by the judgment and

decree dated 17th January 1994 passed by the District Judge, Kolhapur in Regular Civil Appeal No.280 of 1988 is hereby quashed and set aside;

- (iii) The decree be drawn in favour of the appellant by decreeing the suit filed by the plaintiff on the following terms;
- (iv) The appellant to deposit Rs.2,000/- along with interest at the rate of 8% from 31st January 1978 to 30th June 1982 on the said amount. The plaintiff would be entitled to redeem the mortgage deed dated 27th January 1968 at Exh.30 and to obtain possession of the land as described in paragraph 1 of the plaint from the defendants;
- (v) The appellant herein shall be entitled to receive interest on the amount which is deposited as per the decree which is drawn consequent to allowing of the second appeal till the date of recovery of possession at the rate of 8% p.a.;
- (vi) There will be no order as to costs;
- (vii) Appeal is disposed of on above terms.

(SMT. SADHANA S. JADHAV, J.)