

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO. 416 OF 2015
WITH CA/10583/2015 IN SA/416/2015**

**SHIVAJI DALPAT KOLI (SONAWANE)
VERSUS
SITARAM TUKARAM KOLI AND OTHERS**

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Advocate for Appellant : Mr. Patil Vijay B.
Advocate for Respondent Nos. 1 to 8 : Mr. M.G. Patil
AGP for Respondent Nos. 9 & 10 : Mr. P.N. Kutti

CORAM : RAJESH S. PATIL, J.

DATED : 17 OCTOBER, 2022

PER COURT:-

1. Heard learned counsel for the parties.
2. The Second Appeal is filed by original defendant No. 1. The respondent Nos. 1 to 8 are the original plaintiffs.
3. The plaintiffs had filed the suit for declaration and injunction in respect of land Gut No. 54 (Old Survey No. 24/1) situated at Village Ladali Pr.Chansar, Taluka Dharangaon, District Jalgaon, admeasuring 1 hectare 43 ares. The said suit of the plaintiffs was dismissed by the trial Court by judgment and decree dated 08.02.2007. The plaintiffs, thereafter, preferred Regular Civil Appeal before the learned Civil Judge Senior Division, Jalgaon.

4. Learned Civil Judge Senior Division, Jalgaon, by its judgment and order dated 23.01.2015, allowed the appeal partly only to the extent that the defendant was perpetually restraining or interfering in peaceful possession of the plaintiffs over the suit land, without following due process of law. The Second Appeal is filed by defendant No. 1 against the said part of the judgment and decree of the appellate Court. The Second Appeal is filed for admission in the year 2015 along with Civil Application seeking stay to the impugned judgment and order. Till date, there is no relief granted to appellant.

5. Learned Advocate for the appellant argued that the appellant original defendant No. 1 has already filed eviction proceedings under Section 59 of Maharashtra Land Revenue Code, before the Tahsildar Dharangaon. The said proceedings are pending before the Tahsildar. Learned Advocate tendered copy of order dated 19.11.2018, whereby, the proceedings before Tahsildar, Dharangaon, were stayed due to pendency of present Second Appeal and Writ Petition No. 8772/2018. However, learned counsel was not able to satisfy this Court to show any error in the view taken by the appellate Court.

6. No substantial question of law arises, therefore, the Second Appeal is dismissed with no order as to costs.

[RAJESH S. PATIL, J.]