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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**SECOND APPEAL NO. 519 OF 2015
WITH
CIVIL APPLICATION NO. 513 OF 2012
IN
SECOND APPEAL NO. 519 OF 2015**

Vasudeo Vitthal Kamble

.....Appellant

Vs.

Krishna Balaji Bhawe
(Decd. Thr. LRS)

.....Respondents

Mr. Samir M. Suryawanshi i/b Mr. S. A. Sawant for the appellant
Mr. Rohit Gorade i/b Mr. S. G. Karandi for respondent nos. 2 to 4
Ms. Ruchita Ganesh Kadam for respondent nos. 5a, 5b, 6a, 6b, 7, 8a to 8d

CORAM : GAURI GODSE, J.

DATE : 26th NOVEMBER 2024

ORDER:

1. Heard learned counsel for the appellant. This second appeal is preferred by the original plaintiffs to challenge the concurrent judgments and decrees dismissing the suit for declaration challenging the sale deed in favour of defendant no. 2 and injunction protecting the plaintiff's possession.

2. Learned counsel for the appellant submits that 7/12 extracts prior to consolidation scheme shows that the appellant is in possession of the suit property being agricultural tenant. He submits that both the Courts have failed to correctly appreciate the original revenue record which shows that the appellant is in possession of the suit land based on the entries with respect to the survey numbers prior to the consolidation scheme. He thus submits that the second appeal would require consideration on the incorrect appreciation of the documents on record and more particularly 7/12 extracts prior to consolidation scheme.

3. I have perused the papers and considered the submissions made on behalf of the appellant. The grounds argued on behalf of the appellant are thoroughly examined by the first Appellate Court and recorded a finding in paragraph 17 of the impugned judgment. The first Appellate Court by examining the documents on record held that the plaintiff was in possession of survey no. 225 Hissa No. 1 admeasuring 3 Hectors and 73 Are which is allotted to Gat No. 1481. The first Appellate Court further held that the suit property i.e. Gat No. 1482 is allotted to the land in possession of the landlord.

4. It is not in dispute that the entries in the consolidation scheme is not challenged by the plaintiff. Hence, I do not see any illegality or perversity in the findings of facts recorded by both the Courts. The first Appellate Court being the last fact finding Court has thoroughly examined the evidence on record and recorded findings of facts regarding holding of the parties in paragraph 17 of the impugned judgment.

5. The grounds argued on behalf of the appellant would require re-examination of evidence on record which is not permissible under section 100 of Code of Civil Procedure, 1908.

6. The second appeal does not raise any substantial question of law. Hence, the second appeal is dismissed.

7. In view of dismissal of second appeal, Civil Application No. 513 of 2012 is disposed of as infructuous.

[GAURI GODSE, J.]