

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

**SECOND APPEAL NO.132 OF 2024
WITH
INTERIM APPLICATION NO.59 OF 2024
IN
SECOND APPEAL NO.132 OF 2024**

Sushila Kakasaheb Patil

....Appellant/Applicant

V/S

Kamal Ajit Patil & Ors.

....Respondents

Mr. Kishore Patil a/w Mr. Amar Gharte *for the Appellant/Applicant.*
Mr. S.C. Wakankar *for Respondents.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 03 MAY 2024.**

P.C.:

1 By this Appeal, Appellant challenges the decree dated 29 January 2015 passed by District Judge, Pune partly allowing the Appeal filed by the original Plaintiffs and decreeing the suit for delivery of possession of the suit premises to the Plaintiffs. It appears that the decree is corrected by the First Appellate Court by passing order dated 19 December 2022 by including 'flat' within the suit premises. The net result of the decrees passed by the Trial and the First Appellate Court is that the Appellant will have to deliver the possession of the flat to the original Plaintiffs.

2 It appears that the Appellant's claim to the flat in question was premised on her assertion that she is a legally wedded wife of Kakasaheb Patil. However her claim came to be negated by the Court of Civil Judge Senior Division by dismissing Special Civil Suit No.1343 of 2004 on 30 September 2005. Her Appeal against the said decree was also rejected on 19 March 2010. This Court has dismissed the application for condonation of delay in filing the Second Appeal challenging the decree dated 19 March 2010. Thus the Appellant has not been able to prove her relationship with Kakasaheb Patil. In that view of the matter, no error can be traced in the decrees passed by the Trial and the First Appellate Court under which the Appellant is liable to handover possession of the flat to the original Plaintiffs. No substantial question of law is involved in the present Appeal. The Second Appeal is accordingly rejected.

3 In view of the rejection of the Second Appeal, nothing survives in the above Interim Application for stay and the same is also disposed of.

(SANDEEP V. MARNE, J.)

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