

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 608 OF 2017

Sidram Sidgonda Mudhol
(Since Decd. Thr. L/H) and ors

.....Appellants

Vs.

Jakavva Layappa Nile
(Deleted) 2 Sidraya Layappa Nile

.....Respondent

Mr. S. C. Mangle i/b Mr. Balwant V. Salunkhe for the appellants

CORAM : GAURI GODSE, J.

DATE : 14th JANUARY 2025

IRESH
MASHAL

ORDER:

Digitally
signed by
IRESH
MASHAL
Date:
2025.01.28
14:58:05
+0530

1. This appeal is preferred by the original defendants to challenge the concurrent judgments and orders granting mesne profits. The mesne profits inquiry was conducted pursuant to the judgment and decree passed in R.C.S. No. 38 of 1966. The decree for possession has attained finality.

2. Learned counsel for the appellants submits that the appellants were put in possession pursuant to the orders of the Court. He

therefore, submits that the appellants cannot be held liable to pay any mesne profits. He, therefore, submits that the issue regarding the appellants not being in any unauthorised possession, would require consideration by this Court as the same raise substantial questions of law.

3. I have perused the judgment in R.C.S. No. 38 of 1966 pursuant to which the inquiry for mesne profits was conducted. The trial Court had framed the issue regarding the plaintiff's entitlement for mesne profits which was answered in the affirmative. The decree therefore directed the inquiry for ascertaining the amount of mesne profits. The impugned judgment and order in the second appeal pertains to the quantification of the mesne profits. The decree directing the inquiry for mesne profits by holding that the plaintiff was entitled to mesne profits has attained finality. Hence, the arguments raised on behalf the appellants regarding the appellants' liability to pay mesne profits cannot be reopened in the present second appeal.

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

5. In view of dismissal of the second appeal, the plaintiffs would be

entitled to withdraw the amount deposited by the appellants in the District Court, if the amount is not yet withdrawn.

[GAURI GODSE, J.]