

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 543 OF 2018**

Indumati Gopalrao Gulave & Ors. Appellants
Vs.
Tukaram Namdeo Gulave & Ors. Respondents

Ms. Rukmini M. Khairnar i/by Mr. Pramod Joshi for Appellants.
Mr. Harshad M. Inamdar for Respondent nos. 1 to 5.

Coram : NITIN W. SAMBRE, J.

Date : 28th January, 2020

P.C.:

1. This appeal is by original defendants to Regular Civil Suit No. 22 of 2010, which was initiated with a prayer for declaration, possession and perpetual injunction. It is claimed that the sale-deed executed by the father of the respondents- plaintiffs on 13th August, 1990 is liable to be set aside as same was executed by practising fraud. The knowledge of execution of said sale-deed came to be received by the plaintiffs when they have received notices from the revenue authorities in the proceedings initiated by the present appellants-defendants against the mutation entry.

2. The trial Court, while dismissing the suit answered the issue of limitation against the respondent, whereas the appellate Court reversed the same by recording finding. It is observed that for the first time, it has come to the knowledge of respondents-plaintiffs about the execution of sale-deed and dis-possession in the year 2000 through the notice from the revenue authorities in the mutation proceedings.

3. The trial Court specifically observed that the respondents-plaintiffs have not come out with a plea of dis-possession in the backdrop of the sale-deed executed on 13th August, 1990.

4. In the aforesaid background, question of law, which in my opinion deserves consideration :

“Whether the suit was within the limitation”?

5. Hence, Admit.

6. Mr. Harshad Inamdar waives service of notice on behalf of respondent nos. 1 to 5.