

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.289 OF 2013
ALONGWITH
CIVIL APPLICATION NO.813 OF 2013**

Kisan Narayan Goykar Appellant
 Vs.
Hanumant Ramchandra Goykar Respondent

Mr. Gajanan Savagave alongwith Mr. J.B. Panke, Advocate for the Appellant.

Mr. Ashok B. Tajane, Advocate for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 7th January, 2015.

P.C.

1 The present appeal is directed against the concurrent findings of fact of the trial court and the lower appellate court. The appellant is the original plaintiff, who had filed suit for injunction to restrain the respondent from disturbing his possession of the property at Gram Panchayat house No.475. The respondent, in his written statement denied the entire claim of the appellant. The trial court framed three issues on the basis of the pleadings between the parties. The first issue related to the possession of the suit property by the appellant. The second issue related to the allegations of disturbance of possession and the third issue was about entitlement of the appellant to relief of injunction. The trial court answered all the three issues in

the negative and the appellate court has confirmed the findings of the trial court.

2 Mr. Savagave, the learned advocate appearing for the appellant submits that the finding of the courts below as regards possession of the suit property by the appellant are perverse, since the appellant had produced the documents of title being the registered sale-deeds in his favour in respect of the suit property. The appellant claimed to have been purchased three portions of the land from three different persons at different points of time under the registered sale-deed. The courts below have held that apart from the production of sale-deeds, it was necessary for the appellant to produce map from the survey office to indicate the exact location of his land. I find no infirmity in the view taken by the courts below.

3 Apart from the right to possess the suit property and it's actual possession, it was necessary for the appellant to establish the alleged act on the part of the respondents of disturbance of that possession. It was the specific allegation of the appellant in his plaint that the respondent had on 27th March, 2000, at 10.00 am., come near the suit property and demanded that the appellant vacates the same. He is also alleged to have threatened that if the suit property is not vacated by the appellant, he would be forcibly removed therefrom. Perusal of the record shows that there is no evidence on this incident at all. Thus the allegation of any disturbance of possession of the suit

property by the respondent is not at all established. In that circumstance, the courts below have correctly dismissed the suit. There is also no substantial question of law arising for consideration, hence, the Second Appeal is dismissed.

4 In view of dismissal of the Second Appeal, the Civil Application does not survive, the same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)