

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(Civil Appellate Jurisdiction)

SECOND APPEAL NO. 153 OF 2015

(Shri Babasaheb Chudgaonda Patil
since deceased through legal Representatives
Smt. Sarojini Babasaheb Patil
and others Appellants

versus

Mr. Pandurang Krishna Varute
and others Respondents)

Mr. Uday P. Warunjikar, Advocate for appellants.

CORAM : R.K.Deshpande, J.
DATED : 8th JULY, 2015.

P.C.

The trial Court passed a decree in Regular Civil Suit No. 611 of 2003, declaring the communication dated 27.02.2003 by Tahsildar, Karveer, as illegal and directing the deletion of the names of defendant no. 1 and 9 others, from 7/12 extract in respect of the suit property. This decree passed by the trial Court on 12.12.2007 was the subject matter of Regular Civil Appeal No. 26 of 2008, which has been allowed by the lower appellate Court on 10.12.2014. The lower appellate

Court has dismissed the suit filed by the appellant/ original plaintiff. Hence, this second appeal.

The dispute involved before the Courts below was whether the plaintiffs have proved their ownership and possession over the suit land?. The lower appellate Court has recorded the finding that the ownership is proved, but possession is not proved. The lower appellate Court reversed the finding of fact recorded by the trial Court in respect of the letter dated 27.02.2003 issued by the Tahsildar. Consequently, the decree passed by the trial Court is set aside and the suit is dismissed.

Shri Uday Warunjikar, the learned counsel appearing for the appellants submits that the dispute is pending before the Revisional Authority in respect of the mutation entry in Revision No. 173 of 2002.

What was challenged before the trial Court in the suit in question was the communication/ letter, which was purely in the nature of administrative action. Such action always remains subject to the decision on the controversy involved before the quasi judicial authority. Hence, the decision passed by the lower appellate Court impugned in this second appeal is subject to the decision in Revision No. 173 of 2003 and no

substantial question of law arises for consideration.
The second appeal is dismissed.

(R.K.DESHPANDE, J.)

Rvjalit