

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Second Appeal No.753 of 2011

(M/s. Bhimale & Sons, through its Partners and others v. Mrs. Sarojinibai
Sadashivrao Pantsachiv and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri P.B. Kulkarni, Advocate for Appellants.

Shri R.D. Soni, Advocate, i/b Ram & Co. for Respondent Nos.6
and 8.

Coram : R.K. Deshpande, J.

Dated : 17th June, 2015

Both the Courts below have rejected the claim of the appellants/plaintiffs for declaration of ownership in respect of the suit property by way of adverse possession. In order to show the hostile possession for continuous period of 12 years, two documents were relied upon, viz. Exhibit 140 and Exhibit 141, which are the letters, said to have been issued by the defendant No.2 to the owner of the property on 26-11-1981 and 21-12-1981 to the plaintiffs. Both the Courts below have held that these two documents have not been proved. The Hand-writing Expert has not been examined to prove the hand-writing on these letters to be that of the defendant No.2. The learned counsel for the appellants does not dispute that even before the lower Appellate Court, no application under Order XLI, Rule 27 of the Civil Procedure Code was filed for permission to lead additional evidence. In the absence of the finding regarding hostile possession, no fault can be found with the view taken by the Courts below.

Thus, no substantial question of law arises in this second

appeal. The second appeal is dismissed.

Judge.

Lanjewar