

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 CIVIL APPLICATION NO. 5665 OF 2005
IN SA/327/2001

BHANA BHILA VANJARI SINCE DECEASED LRS & ORS
VERSUS
UKHA BUDHA VANJARI

Shri. R.R. Mantri, Advocate, for applicants.

CORAM: T.V. NALAWADE, J.

DATE : 17th JUNE 2016.

ORDER:

- 1) The application is filed for review of the order made by this Court on 29-4-2004 in Second Appeal No.327/2001. Heard learned counsel for the applicant.
- 2) The second appeal was filed by present applicant to challenge the decision of the District Court Nandurbar in Regular Civil Appeal No.13/1994. The suit filed by the present applicant for relief of injunction was decreed in his favour and this decision is set aside by the first appellate Court.
- 3) The first appellate Court held that title of the disputed property is with the defendant and so the

plaintiff cannot get relief of injunction. The trial Court had observed that the procedure laid down by law for eviction needs to be followed, till then relief of injunction can be given.

4) This Court has confirmed the finding given by the first appellate Court. It appears that the revenue authority was moved by the defendant after taking measurement and ascertaining the encroachment. The revenue authority had issued order of handing of possession against the plaintiff and this order was treated as cause of action by the plaintiff.

5) Learned counsel for the applicant placed reliance on the case reported as **1989 (3) Bom.C.R. 364 (Krishna Ram Mahale v. Shobha Venkat Rao)** and submitted that if the person is in settled possession of the property he cannot be dispossessed by one of the party except in due course of law. This Court while dismissing the appeal has confirmed the finding given by the first appellate Court. If this Court had committed error in deciding the matter it is open to the applicant to challenge

the decision. That is not done. There is no scope of review. The application or review is rejected.

Sd/-
(T.V. NALAWADE, J.)

rs1