

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABA

SECOND APPEAL NO. 639 OF 2017

Suryakant Kanakmal Gandhi and another

...APPELLANT

VERSUS

Rajendra Santoshlal Shingi

...RESPONDENT

Mr. Satyajit S. Bora, Advocate for appellants
Mr Z.M. Pathan, Advocate for respondent..

CORAM : NITIN W. SAMBRE, J.

DATE :4th October, 2017

ORAL ORDER :

Heard.

2. The appeal needs consideration, in my opinion, particularly in the backdrop on the following question of law.

Whether Courts below have committed an error in recoding finding that the respondent, who claims to be in long standing possession of the property, by virtue of permissive possession, should not be evicted without following due process of law ?

3. At the instance of respondent/plaintiff, in my opinion, one more issue, which requires consideration, is:

Whether in the light of pleadings raised in paragraph No.3 of the plaint, both the Courts below have committed an error in not framing issue of Adverse Possession and, as such, ownership of the respondent/plaintiff is admitted ?

4. **Hence Admit.**

5. Learned Counsel for respondent waives service of notice on behalf of respondent on admission of appeal.

6. The appellant undertakes to file paper book within a period of six months from today. If he fails to file paper book within the stipulated period, the appeal shall stand dismissed, without further reference to the Court.

(NITIN W. SAMBRE, J.)

pjm