

Amrut

***IN THE HIGH COURT OF BOMBAY AT GOA***  
***SECOND APPEAL NO.94 OF 2017***

Jose Faria alias Tamblo ( deceased)

through his legal heirs & Anr

.... Appellants

Versus

Bruno Braganza Pereira & Ors

.... Respondents

Mr. Shailesh Redkar, Advocate for the Appellants.

Mr. P. A. Kamat, Advocate for Respondent Nos.1 & 2.

***Coram : N.M. Jamdar, J.***

***Date : 16 November 2017.***

***P.C.:***

By this Second Appeal, the Appellants have challenged the concurrent judgments and orders passed by the learned Civil Judge Junior Division, Quepem and the learned District Judge, South Goa, Margao, decreeing the suit filed by the Respondents/Plaintiffs and dismissing the appeal filed by the Appellants/Defendants. The learned Civil Judge has directed the Appellants to remove the suit structure. The appeal filed by the Appellants has failed.

2. In the suit, the Respondents/Plaintiffs have asserted that the Respondents/Plaintiffs are the owners of the property and the

Appellants have constructed a structure without any permission inside the property owned by the Respondents/Plaintiffs. Both the Courts have accepted the ownership claim of the Respondents/Plaintiffs. The Appellants had resisted the suit on the ground that the Appellants are the mundkars of the Respondents/Plaintiffs. The proceedings taken by the Appellants for establishing that they are the mundkars of the property have failed before the competent authority. The Appellants therefore have no right of whatsoever in the suit property.

3. The learned counsel for the Appellants sought to contend that there is a confusion regarding the identify of the hut, there are two huts shown on the map and only one of them belong to the Appellants. On a specific query put to the learned counsel for the Appellants, he submitted that as far as the hut marked 'F', the Appellants have no right of whatsoever. If the Appellants does not have any right, what happens to the property marked 'F', is no concern of the Appellants. As far as the structure according to them is in their possession will have to be removed pursuant to the decree since both the Courts have found that they have no right to remain on the suit land. No substantial question of law arises. The Second Appeal is accordingly dismissed.

***N.M. Jamdar, J.***