

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.630 OF 2012

Uttam Bayani Daddikar

..Appellant

-Versus-

Tamas Manvel Bardeskar

..Respondent

Mr. S.S.Kudalkar for appellant

None for respondent.

CORAM : N.M. JAMDAR, J.

DATE : 19th April 2017.

P.C.

1] The appellant is the original defendant. A suit bearing No.76 of 2002 was filed by the respondent – plaintiff for recovery of possession of the suit property from the appellant. The suit was decreed by the learned Civil Judge on 31st July 2006, holding that the respondent plaintiff has proved his title over the suit property and the case of the appellant that the appellant has become owner by adverse possession was not proved. An appeal bearing No.64 of 2006 was filed by the appellant in the District Court Gadhinglaj, which was dismissed by the learned District Judge by judgement and order dated 4th November 2011. Learned Counsel for the

appellant submitted that the learned District Judge has not approached the matter in correct manner and issues were not properly framed. He submitted that the appellant was put in possession by the mother of respondent – plaintiff and the appellant is in long standing possession.

2] The suit filed by the respondent – plaintiff was based on title. The appellant has not been able to show any title to the suit land. As regards the theory of appellant of adverse possession, both the courts have observed that the possession as per the case of the appellant himself, was permissive. Therefore, it cannot be construed as adverse possession. So also, the suit has been filed before the period of 12 years.

3] Both the courts having taken note of lack of any legal right in the appellant have passed the impugned judgements and orders. No question of law arises. Second appeal is accordingly dismissed.

(N.M.JAMDAR, J.)