

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.810 OF 2015

Smt. Vandana Lahu Aaraj And Others ... Appellants
Versus
Shri Vilas Parshuram Bhoir And Others ... Respondents
.....
Mr. Rajesh Datar for the Appellants.
.....

CORAM : S.C.GUPTE, J.

DATE : 9 JANUARY 2017

P.C. :

. Heard learned Counsel for the Appellants.

2 The Appellants (original Plaintiffs) had filed the present suit for removal of an encroachment. The suit was based on their title as owners and possessors of the suit property. It was also the Appellants' case that Respondent Nos.1, and 3 to 11 (original Defendant Nos.1 and 3 to 11) had made construction over the suit property and they were obstructing the Plaintiffs' possession of the suit property. Both the Trial Court and Appellate Court have come to the conclusion that these factual aspects have not been proved by the Appellants.

3 Learned Counsel for the Appellants submits that the First Appellate Court has merely endorsed the findings of the Trial Court and not applied its mind separately to the evidence before the Court. The perusal of the

order passed by the First Appellate Court shows that the conclusion of the Trial Court, in the light of evidence before the Court, has been examined in the appeal in detail in paragraphs 13 to 18 of the appellate order and judgment. The questions as to whether the Plaintiffs are owners of the suit property or possessed the same and whether the Defendants are obstructing the Plaintiffs' possession by making the alleged construction over the suit property, are pure questions of fact. There are concurrent findings of the Courts below, which are based on evidence.

4 The Appellants have not made out a case either that the impugned judgments are based on no evidence or that the Courts below have come to the conclusion by taking into account any irrelevant material or by disregarding any relevant or germane material. No question of law, much less any substantial question of law, can be said to be arise in the appeal for the determination of this Court. The appeal is, therefore, dismissed. No order as to costs.

(S.C.GUPTE, J.)