

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

*SECOND APPEAL NO. 235 OF 2017
WITH
CIVIL APPLICATION NO. 356 OF 2017
WITH
SECOND APPEAL NO. 236 OF 2017
WITH
CIVIL APPLICATION NO. 1193 OF 2016*

Vishnu Parashram Mate & Ors. ... Appellants

Versus

Shri Balaji @ Bajirao Kisan Mate ... Respondent

Mr. Harshad Inamdar I/by Ashok Pandire for Appellants.
Mr. Girish Agarwal for Respondent.

*CORAM : N. M. Jamdar, J.
DATE : 16 January, 2018.*

ORAL ORDER

. By both the Second Appeals, the Appellants have challenged the common judgment and order passed by the learned District Judge, Nashik dated 31st October 2015 in Regular Civil

Appeal No. 148 of 2009 and Regular Civil Appeal No. 150 of 2009, wherein the learned District Judge has dismissed the Appeal filed by the Appellants/Original Defendants and had allowed the Cross Appeal filed by the Appellant/Original Plaintiff.

2. The Appellant/Plaintiff filed a Regular Civil Suit No. 119 of 2007 in the court of Civil Judge, Junior Division, Nashik Road for relief of declaration and injunction and also to set aside the order passed by the Revenue Authorities on 24th September 2007. The learned civil judge partly decreed the suit and granted declaration in favour of the Plaintiff that the Plaintiff is the owner of Gat No. 333 to the extent of 1 Hecter 57 Ares and that the Appellants/Defendants should not interfere with his possession.

3. Against this judgment and order dated 29th June 2009, the Respondent/Plaintiff and Appellant/Defendants filed their respective First Appeals. The learned District Judge, Nashik allowed the Appeal filed by the Respondent/Plaintiff and decreed the suit in toto, and the order passed by the Revenue Authorities on 24th September 2007 was set aside.

4. Heard learned Counsel for the parties.

5. As regard the ownership and possession of the Respondent/Plaintiff in suit property -Gat No. 333 admeasuring 1

Hector 57 Ares is concerned, nothing is shown as to how this finding is incorrect nor why an injunction should not be granted in favour of the Respondent/Plaintiff to protect his lawful possession in respect of the Gat No. 333 admeasuring 1 Hector 57 Ares.

6. Sole contention raised by the learned Counsel for the Appellants is that possession of the Appellants in respect of Gat No. 334 needs to be protected and the learned District Judge was in error to set aside the order passed by the Revenue Authorities. Upon a query to the learned Counsel for the Appellants whether the Appellants have filed any suit seeking injunction and declaration in respect of Gat No. 334, it was informed that Appellants have not filed any such suit. Though the learned District Judge has set aside the order passed by the Revenue Authorities, it is settled law that the Revenue Authorities cannot decide the issues of title and such other civil disputes. Thus, the apprehension of the learned Counsel for the Appellants that the Appellants will not be able to file Civil Suit in view of setting aside the order passed by the Revenue Authorities dated 24th September 2007, is misconceived. If a Civil Suit is filed by the Appellants in respect of Gat No. 324 for declaration and injunction, it will have to be decided on its own merits independent of the fact that the order of Revenue Authorities has been set aside.

7. In view of this position, no further orders are required to be passed in both the Second Appeals, as no question of law is involved. Both the Second Appeals are accordingly disposed of.

8. As both the Second Appeals are disposed of, nothing survives in Civil Application No. 356 of 2017 and Civil Application No. 1193 of 2016. Both the Civil Applications stand disposed of accordingly.

(N.M. Jamdar, J.)