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

***SECOND APPEAL NO. 27 OF 2018
with
CIVIL APPLICATION NO. 104 OF 2018***

Pravin Parag Solanki. ...Appellant/Applicant.

V/s.

Union of India & Ors. ... Respondents.

Mr. Sandeep S. Jinsiwale for the Appellant/Applicant.

Mr. S.S. Deshmukh for Respondents 1 to 3.

CORAM : N.M. Jamdar, J.

DATE : 23 January, 2018.

Oral Order :-

The Appellant – Original Plaintiff has challenged the concurrent judgments and orders passed by the Civil Judge, Senior Division, Diu dated 2 September 2017 and the Principal District Judge, Diu, dated 22 September 2017.

2. The Appellant – Plaintiff filed the suit primarily contending that the Appellant has become a owner by way of

adverse possession and his possession be protected by an order of permanent injunction. A suit was filed against the Respondent – Union of India, the Collector and the Administration of Daman and Diu.

3. Heard learned Counsel for the parties.

4. The concept of adverse possession is necessarily a defence. Both the Courts, on assessment of evidence, did not find any hostile animus on the part of the Appellant, which is an essential ingredient for establishing adverse possession. Nothing is shown how this finding is perverse.

5. The learned Counsel for the Appellant then contended that since the Appellant is in possession, he is at least entitled to an order of injunction to protect his possession. There does not appear to be any dispute that as on today the Appellant is in possession of the suit property. He has no legal right. Since the Respondents are Governmental Authorities, they will have to take steps as per law, if they want to evict the Appellant from the suit premises. Therefore, an perpetual injunction in favour of the Appellant cannot be granted, since he has no title to the Government property. However, if the Appellant is to be evicted from the suit premises, the Respondents will have to take steps as per law.

6. In the circumstances, no substantial question of law arises in this Second Appeal. The Second Appeal is dismissed with the above observations. Civil Application stands disposed of accordingly.

(N.M. Jamdar, J.)