

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

938 SECOND APPEAL NO.941 OF 2018
WITH CA/15064/2018 IN SA/941/2018

SATYABHAN DAGDUBA BHALEKAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALNA, AND
OTHERS

...

Advocate for Appellant : Shri Jadhav Hanumant P.

AGP for Respondent nos.1 & 2: Shri A.P. Basarkar

CORAM: V.L. ACHLIYA, J.

DATE: 18.06.2019

PER COURT :

1] Being aggrieved by the concurrent decisions of the Courts below, the appellant has preferred this second appeal.

2] Heard learned counsel for the appellant. Perused the judgment and order passed by the trial Court as well as the appellate Court.

3] In brief, it is the contention of learned counsel for the appellant that the evidence adduced in the case has not been properly appreciated. There was admission given on the part of Gram Sevak that the appellant - original plaintiff is in possession of the suit plot. It

- 2 -

is contended that on account of longstanding and uninterrupted possession, the appellant - plaintiff has become owner of the adjoining plot owned by the respondent - Grampanchayat and entitled for declaration and injunction. The learned counsel submits that the ground nos.1 to 9 as raised in the memo of appeal are the substantial questions of law involved in the appeal.

4] I have carefully considered the submissions advanced in the light of judgment and order passed by the trial Court and confirmed in the appeal. The plaintiff had filed suit for declaration of ownership and perpetual injunction in respect of open plot admeasuring 55 x 27 ft. located adjoining to his ancestral house claiming therein that since the year 1965, the plaintiff is in possession of said plot and his name be mutated as an owner thereof in the record of Grampanchayat. Since the representations made to various authorities of the Government were not considered and the plaintiff formed an apprehension that he may be dispossessed from said plot, he filed the suit seeking declaration of ownership of said plot and perpetual injunction. The defendant nos.2 and 3 in the suit i.e. the village panchayat

- 3 -

resisted the suit claim by denying the case of the plaintiff as to possession and enjoyment of suit property as averred in the plaint. On due consideration of oral and documentary evidence adduced in the case, the trial Court has dismissed the suit by observing that the plaintiff has failed to prove that he is in possession of the suit property from 1965 and entitled to reliefs claimed in the suit. The dismissal of suit came to be challenged by filing appeal before the District Court. In the appeal, the appellate Court has found no merit in the appeal preferred and dismissed the same. Being aggrieved, the appellant has preferred this appeal.

5] On due consideration of submissions advanced, I am of the view that no case is made out to entertain the second appeal. In order to entertain the second appeal, it is incumbent upon the appellant to make out that the appeal raises substantial questions of law. The grounds of appeal claimed to be treated as substantial questions of law, I am of the view that none of the same can be treated as substantial questions of law. The reasons and findings recorded by the Courts below are quite consistent with the pleadings and evidence on record. In

- 4 -

absence of substantial questions of law being involved in the appeal, the appeal deserves no consideration. I am, therefore, not inclined to entertain the appeal. The appeal is dismissed. Civil Application No.15064/2018 stands disposed of in view of dismissal of second appeal.

(V.L. ACHLIYA, J.)