

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No.614 of 2018
(Vatsalabai Maroti Meshram and ors. .vs. Mayabai Ambadas Meshram and others.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Ms. Sunita D. Paul, Advocate for Appellants.
Ms. Swati Kulkarni-Potey, Advocate for Respondent No.1.

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CORAM : Manish Pitale, J.
DATED : October 01, 2019.

Heard learned counsel for the appellants.

2. By this appeal, the appellants have challenged concurrent orders passed by the two Courts below granting the decree of possession passed in favour of the respondent no.1.

3. The respondent no.1 filed suit for possession wherein it was claimed that the appellants herein had encroached upon the land belonging to the respondent and a decree was sought for handing over of possession. The stated stand taken on behalf of the appellants was that they have been allotted land under the Urban Land (Ceiling and Regulation) Act 1976, and then alternatively it was pleaded that they had become owners of the suit land by adverse possession and further that the suit filed by the respondent was barred by limitation.

4. The two Courts below took into consideration the oral and documentary evidence on record including a measurement report of the Taluka Inspector of Land Records, who was also examined before the trial Court. On the basis of the evidence led by the rival parties, the trial Court found that the respondent had been able to prove that the appellants had encroached upon the suit property and that she was entitled to grant of decree of possession in her favour. While holding in favour of the respondent on the issues, the trial Court copiously referred to the report of the Taluka Inspector of Land Records, as also other documents and specific admissions given by the witnesses on behalf of the appellants. On such findings of facts rendered by the trial Court, decree was passed in favour of the respondent.

5. The appellate Court considered the points raised on behalf of the appellants and found that the appellants had indeed encroached upon the suit property and that the decree passed by the trial Court did not deserve any interference. While reaching the said conclusion, the appellate Court also took into consideration the report of the Taluka Inspector of Land Records produced upon measurement of the land as also the map that was on record. The oral evidence of the witnesses of the rival parties, particularly admissions given in cross-examination of witnesses on behalf of the appellants, was taken into consideration by the appellate Court to independently reach findings in favour of the respondent, while confirming the decree of possession granted in her favour.

6. In this backdrop, the questions sought to be raised on behalf of the appellants in the present case do not give rise to any substantial question of law as it cannot be said that the appreciation of oral and documentary evidence by the two Courts below was erroneous or that the findings rendered by the said Courts could be said to be perverse.

7. In view of the above, this Court is of the opinion that jurisdiction under Section 100 of the Code of Civil Procedure, 1908, cannot be exercised. Accordingly, the appeal is dismissed.

JUDGE