

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

SECOND APPEAL NO.63/2022

Kundlik s/o Sampat Rindhe

Vs.

Dinkar s/o Uttam Rindhe (dead) through Lrs Alka wd/o Dinkar Rindhe and others

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

Court's or Judge's orders

Shri Abhay Sambre, Advocate for appellant

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 20/10/2022

Heard learned Counsel for the appellant.

2. The suit was filed for recovery of possession of encroached land. It was observed by learned Trial Judge that the suit is hit by the principle of *res judicata*. The suit was filed against the father of defendants in which the contention of defendants was that he has encroached the land of plaintiff. There is no change in the possession of the land since then. It is not proved by the plaintiff that in the year 2007, the land was again encroached and accordingly it was held that there was no cause of action arose during the years 2007 to 2009. The suit filed in the year 1981 vide Regular Civil Suit No.181/1981, came to be dismissed on 08/03/1984 and appeal carried out against that order which also came to be dismissed on 29/02/1987. Accordingly, it was held that the suit is not within limitation and also hit by the principle of *res judicata*. This finding of the learned Trial Court is confirmed by the learned Appellate Court and appeal

is also dismissed against the said order. Hence the present Second Appeal is filed.

3. I do not see any substantial questions of law involved in the present second appeal. There are concurrent findings recorded by both the Courts below which are well founded and no interference is warranted. Hence appeal stands dismissed.

JUDGE

R.S. Sahare