

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 544 OF 2013
WITH
CIVIL APPLICATION NO. 9849 OF 2013

Bhagwat Sahadu Shelke And Another
VERSUS
Shankar Sahadu Shelke And Others

...
Advocate for Appellants : Mr. Vikram R. Dhorde

...
CORAM : S.G. MEHARE, J.

DATED : DECEMBER 18, 2023

PER COURT:-

1. Heard learned counsel for the appellants.
2. The appellants had claimed the injunction against the defendant, who was their brother, on the basis of the title. However, the fact came on record that the defendants were possessing the land on 'Batai'. Since the plaintiffs admitted the possession of the defendants, the Court appears to have correctly dismissed the suit simplicitor for injunction. The plaintiffs admitted that the defendants were in possession as bataidar. One of the plaintiff was residing out of station, so he had no reason to have the possession. Having the title and possession are two different concepts. The possessor may not have the title. Similarly, the title holder may not have the possession.

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3. Perusal of both impugned judgments and decrees which dismissed the plaintiffs' suit, the Court did not find any substantial questions of law involved in the case. Hence, the appeal stands dismissed at the admission stage.

4. Civil Application No. 9849 of 2013 stands disposed of.

(S.G. MEHARE, J.)