



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.887 OF 2017
WITH
CIVIL APPLICATION NO.1858 OF 2017

Daulat Nimba Bhamare And Anr. ...Appellants

Versus

Malati Ashok Deore And Ors. ...Respondents

Mr. Anilkumar Patil i/by Mr. P. R. Rathod for the Appellants.

Mr. Niranjan P. Shimpi for the Respondents.

CORAM : N.R. BORKAR, J.

DATED : 6 SEPTEMBER 2023

PC. :

The respondents/plaintiffs herein had filed suit for possession of the suit land on the ground that the suit land is part and parcel of land owned by them bearing block No.145.

2. The appellants/defendants contested the said suit on the ground that the suit land is part and parcel for land owned by them bearing block No.147. In the alternative plea of adverse possession was raised.

3. The Trial Court on the basis of evidence on record has held that suit land is part and parcel of land bearing block No.145 owned by the respondents/plaintiffs. The plea of adverse possession was rejected. The suit was accordingly decreed.

4. The Appellate Court, has confirmed the findings of the Trial Court and dismissed the appeal filed by the appellants/defendants.

5. The finding recorded by the Trial Court and confirmed by the Appellate Court that the suit land is part and parcel of land bearing block No.145 owned by the respondents/plaintiffs is not shown to be perverse.

6. The learned counsel for the appellants/defendants submits that the plaintiff in his cross-examination has admitted that the suit land is in possession of the appellants/defendants since 1982 i.e. more than 20 years on the date of filing of the suit. It is submitted that the Trial Court as well as Appellate Court thus erred in rejecting the plea of adverse possession. In support of submissions the learned counsel for the appellants has relied upon the judgment in Nazir Mohamed vs. Kamala reported in (2020) 19 SCC 57.

7. It is well settled that long possession is not necessarily adverse possession. The person who bases his title on adverse possession must show by clear and unequivocal evidence at what point of time he started claiming possession adverse to real owner in terms of Article 65 of the Limitation Act. In the present case there is no such evidence in relation to denial of title of the respondents/plaintiffs to the suit land. The Trial Court as well as Appellate Court were therefore justified in rejecting the plea of the appellants/defendants of adverse possession. The Appeal is dismissed.

8. Pending Civil Application is disposed of.

(N.R.BORKAR, J.)