

standing possession of the suit property, hence both the courts ought to have been considered the defendants' plea for perfection of title by adverse possession.

3. Learned counsel for the appellants further submit that as soon as the plaintiffs title was disputed which amounts to raising the cloud on the plaintiffs' title, the suit simplicitor for possession without any relief of declaration of their title would not be maintainable. To support his submissions learned counsel for the appellants relies upon the decision of the Apex Court in the case of ***Anathula Sudhakar vs. P. Buchi Reddy (Dead) by LRs and Others***¹.

4. I have perused the impugned judgments as well as the pleadings. Even if the plaintiffs raised a plea for perfection of title by adverse possession, the written statement is bereft of any pleadings admitting the plaintiffs title for claiming adverse possession. In fact the defendants have claimed ownership over the suit property based on revenue record. Thus, once the plaintiffs title is not admitted, the defendants cannot claim perfection of title by adverse possession. To claim perfection of title by adverse possession the defendants are under obligation to make specific pleading regarding the date from

¹ (2008) 4 SCC 594

which possession is adverse and admission of the plaintiffs' title. Thus, in the absence of any such pleadings the ground raised on the point of adverse possession is not required to be considered by this court. Even otherwise, both the courts have considered the defendants' claim of perfection of title by adverse possession and recorded finding against the defendants.

5. With regard to the reliance placed on the decision of the Apex court in the case of *Anathula Sudhakar* is concerned, the legal principles are not applicable to the facts of the present case. The legal principles settled in the case of *Anathula Sudhakar* are with reference to filing the suit for injunction without seeking any prayer for declaration of title. The general principles laid down by the Apex Court in the said decision are with reference to filing of a mere suit for permanent injunction, when it is necessary to file suit for declaration with possession and injunction as a consequential relief. In the present case, the defendants have claimed their ownership over the suit property. Learned counsel for the appellants was unable to point out the defendants' source of possession and title. So far as the plaintiffs' prayer for possession is concerned, the suit was filed on the

ground of plaintiffs' title.

6. Once the defendants failed to plead any other source of possession, than as pleaded by the plaintiffs, there is no reason why the plaintiffs would be required to seek any declaration of title. Hence, even the second ground raised on behalf of the appellants would not require any consideration by this court.

7. The Second Appeal does not raise any substantial question of law. Hence the Second Appeal is dismissed.

8. In view of the dismissal of the Second Appeal, Interim Application No. 427 of 2023 is disposed of as infructuous.

[GAURI GODSE, J.]