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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 14862 OF 2024
IN
SECOND APPEAL (ST) NO. 28355 OF 2024**

Amin Dhondi Mujawar Deceased thr his ... Applicants/Appellants
heirs

vs.

Babala Lalu Mujawar Deceased his ... Respondent
Legal Heirs

Mr. Javed R. Patel for Applicants.

CORAM : GAURI GODSE, J.

DATED : 29th NOVEMBER 2024

ORDER:

INTERIM APPLICATION NO. 14862 OF 2024

1. This application is for condonation of delay of 13 days in filing the second appeal. I have called upon the learned advocate for the appellants to point out whether the second appeal raises substantial questions of law. The second appeal is preferred by the plaintiffs to challenge the concurrent judgments and decrees dismissing the suit for simplicitor injunction to protect the plaintiffs' possession.

2. Learned counsel for the appellants submits that plaintiffs and

defendants initially jointly possessed the suit land. He submits that the land is the Inam Devasthan land, and it was always in possession of the Devasthan. He submits that the plaintiffs and defendants jointly cultivated the suit land. He thus submits that considering long standing possession and cultivation of the parties on the suit land, the plaintiffs were entitled to protect their possession to the extent of their share. He submits that the aspect of plaintiffs being in possession and cultivating land is not considered by both courts. He thus submits that the second appeal would raise substantial questions of law on incorrect appreciation of facts and evidence.

3. I have perused both judgments. A perusal of the findings recorded by both courts indicates that there was no dispute that the suit land was allotted to Hazarat Peer Ramjansahed Devasthan as Devasthan Inam land. There was no dispute amongst the parties that due to breach of conditions of grant of Inam land, the land was forfeited to the Government. The plaintiffs' contention that by way of auction, the suit land was granted for cultivation to the parties is disbelieved for want of any evidence. The orders passed in the revenue proceedings recorded restoration of the suit land in the name of defendant no. 1. However, there is no evidence produced on record to show any right created in favour of the parties. The

theory of family arrangement amongst the parties is also disbelieved.

4. It is thus held that the plaintiffs failed to prove their right and possession over the suit land. The first appellate court considered the copies of the revenue proceedings produced on record, which recorded the name of defendant no.1 since 23rd November 1976.

5. The first appellate court held that the arguments raised on behalf of the plaintiffs regarding family arrangement were not supported by any documentary evidence. The first appellate court, therefore, confirmed the findings recorded by the trial court that the plaintiffs failed to prove that they were in possession of the suit land. Thus, for want of any supporting evidence, both the courts disbelieved the plaintiffs' case of being in possession of the suit land. Hence, the suit filed for simplicitor injunction to protect plaintiffs' possession is dismissed by the trial court, and the dismissal is upheld by the first appellate court.

6. In view of the concurrent findings recorded by both the courts disbelieving the plaintiffs' case of being in possession of the suit property, the arguments raised on behalf of the appellants would not require any consideration by this court. I do not find any illegality or perversity in the findings recorded by both the courts. The second

appeal does not raise any substantial question of law.

7. In the facts and circumstances of the case, I do not find it necessary to issue notice in the application for condonation of delay of only 13 days. Hence, the delay is condoned, and the Interim Application No. 14862 of 2024 is allowed.

8. For the reasons recorded above, the second appeal is dismissed.

(GAURI GODSE, J.)