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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 578 OF 2021

Ishwar Ambadas Chaware

....Appellant

VERSUS

Sharif Latif Shaikh

.....Respondent

.....
Advocate for Appellant : Mr. Dhorde Pramod P

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 6TH FEBRUARY, 2025.

ORDER :-

1. Heard Mr. P.P. Dhorde, learned advocate for the appellant. Appellant is the defendant in RCS NO. 73 of 2014 that was instituted by respondent/plaintiff seeking a decree of perpetual injunction before the Civil Judge J.D., Shrirampur.

2. It was a case of the plaintiff that he purchased suit property under registered sale deed dated 17.10.2011, Suit property bears City Survey No. 1553, which part and parcel of Block No. 92/30/1. He was put in possession, his name has been recorded in the Record of Rights. However, defendant without any right or concern, obstructed his peaceful possession. That gave rise of cause of action for filing the suit.

3. Defendant appeared before the trial court, filed his written statement contending that he is owner of CTS No. 1543, his name is

recorded in the Record of Rights. The vendor of plaintiff was not having possession over suit property. Plaintiff is not aware of location of the suit property.

4. Trial court framed issues based on rival contentions and finally recorded finding accepting the case of plaintiff as to the ownership and possession over suit land CTS No. 1553, eventually granted decree for perpetual injunction against defendant.

5. Aggrieved defendant filed appeal before the District Judge at Shrirampur. Appellate Court dismissed appeal upholding decree as passed by the trial court. Mr. Dhorde, learned advocate submits that the plaintiff could not prove his ownership and title over suit property as described in the plaint. Merely on the basis of entries in the Record of Rights, courts below could not have accepted the case of plaintiff.

6. Perused reasoning adopted by the courts. It would show that plaintiff has claim over CTS No. 1553, whereas, defendant is claiming his right over CTS No. 1543. There is nothing to indicate that both the CTS numbers overlapped each other.

7. Plaintiff has established his ownership as well as possession on the basis of Record of Rights. Defendant could not bring on record any material to show that entries so recorded are unacceptable as against presumptive value under Section 157 of the Maharashtra Land Revenue Code. Even otherwise, there is no material to accept contention of the defendant that plaintiff is seeking injunction as to the property that is possessed by defendant. Since present suit seeks simplicitor decree of

perpetual injunction and both the courts have concurrently held that plaintiff is in possession, no infirmity can be found in the approach of the courts below. No substantial question of law arise for consideration in this second appeal. Second appeal sans merit, hence stands dismissed.

[S.G. CHAPALGAONKAR, J]

grt/-