



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

938 SECOND APPEAL NO. 634 OF 2022

**RAMCHANDRA SHRIDHAR BHATE DECEASED LRS.
ARVIND AND OTHERS**

VERSUS

SURESH ANANT PATHAK

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Advocate for Appellants : Mr. Pandit S.M.

Advocate for Respondent : Mr.Nagargoje Ankush N.

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CORAM : ROHIT W. JOSHI, J.

Dated : 5th MARCH, 2025

PER COURT :-

. The present second appeal is filed by the original defendants.

2. The plaintiff had filed Regular Civil Suit No.340/2000 before the learned Civil Judge, Junior Division, Akole, for possession against the defendants claiming ownership over the suit property. It is the case of the plaintiff that the temple is constructed on the suit property and the father of the plaintiff had allowed the father of the defendants to occupy the temple with a view to ensure that proper puja of the installed idol is performed. The case of the plaintiff was that the father of the defendants was in permissive possession of the suit property as care taker and poojari.

3. The learned trial Court has dismissed the suit, vide judgment and decree dated 29.10.2010 on the ground that plaintiff had failed to prove the title. Aggrieved by the dismissal of the suit, plaintiff filed first appeal under Section 96 of the Code of Civil Procedure, being Regular Civil Appeal No.96/2010. The appeal is allowed vide judgment and decree dated 12th February, 2020 passed by the Adhoc District Judge-1, Sangamner. The learned First Appellate Court has held that the plaintiff had proved his title over the suit property and that the father of the defendants was merely permissive occupant.

4. Being aggrieved by reversing decree passed by the First Appellate Court, legal representatives of the original defendant have filed the present second appeal.

5. The learned counsel for the appellants contends that since the title was not proved, the plaintiff was not entitled for decree of possession. However, on a query made by this Court, he confirms that the father of the appellants, who was the original defendant, was placed in possession of the property by the plaintiff. It is also not disputed that the possession was delivered for performing the puja and other rituals in the

temple. Since, it is undisputed that the deceased acquired possession of the property from the plaintiff, the defendants cannot challenge the title of the plaintiff. In that view of the matter, the judgment and decree passed by the First Appellate Court is just, proper and legal and does not warrant any interference. No substantial question of law arises for consideration in second appeal. Second Appeal is accordingly dismissed.

(ROHIT W. JOSHI, J)

sga/2025