



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 102 OF 2014

TUKARAM KESHAV MORE (DIED) THROUGH LEGAL
HEIR VISHWANATH MORE

VERSUS

RAHIBAI RAMA MORE AND OTHERS

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Advocate for Appellant : Mr. D. K. Thote.

Advocate for Respondent Nos.1A to 4 : Mr. Kishor R. Doke.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 06.11.2025

FINAL ORDER :

1. Heard both sides.
2. Appellant is original plaintiff whose suit for declaration and injunction was partly allowed by the Trial Court to the extent of Gut No.659 and dismissed to the extent of Gut Nos.270 and 271. The decree is confirmed by Lower Appellate Court. Being aggrieved, he has preferred present second appeal.
3. The parties are related inter-se. The genealogy referred in paragraph No.3 of the judgment passed by Lower Appellate Court can be relied upon. The relationships are admitted. Both

the parties are unanimous that Gut No.659 was allotted to the appellant/plaintiff and he is in possession of the same and therefore to that extent the suit was decreed. The controversy pertains to Gut Nos.270 and 271 which are also claimed by him.

4. The suit is contested by respondent Nos.1 to 4 on the ground that Gut No.270 was allotted to Raghu, father of defendant Nos.2 to 4 and Gut No.271 was allotted to respondent No.1. Respondent No.1 was issue-less and she had adopted respondent No.2 Aniruddha by registered adoption deed dated 17.05.1995. The land allotted to her devolved upon defendant No.2. The allegation in respect of allotment of part of Gut No.271 to the plaintiff, and his dispossession from Gut No.271 are denied.

5. Learned counsel for the appellant submits that there is a long lasting possession of the appellant over Gut Nos.270 to 271 and both Courts below committed patent illegality in non-suiting him. It is submitted that both Courts below committed perversity as entire evidence was not considered by Courts below. It is further submitted that both Courts below have

arrived at erroneous conclusion and the decision of the Tahsildar, Georai in Case No.96/ROR/52 was not appreciated.

6. Per contra, learned counsel for the respondents supports impugned judgments. It is submitted that both Courts below have dealt with all aspects of the matter and have arrived at reasonable and plausible conclusion. It is submitted that no substantial question of law is involved in the second appeal.

7. I have carefully gone through the judgments of Courts below. Both the Courts below have considered documents Exh.54, 76 and 81 in arriving at conclusion that Gut No.270 was allotted to Raghu, father of respondent Nos.2 to 4 and Gut No.271 was allotted to respondent No.1. The categorical findings are recorded appreciating the revenue record. The Lower Appellate Court has elaborately recorded findings in paragraph Nos.31 to 34 of the judgment which cannot be faulted.

8. The decision rendered by Tahsildar on 26.06.1997 cannot prevail over the decision rendered by the competent Civil Court. After considering oral and documentary evidence on record pertaining to the title and possession of the parties,

Gut No.270 is held to be allotted to Raghu and Gut No.271 is to respondent No.1. I do not find any perversity or illegality in discarding the decision of the Tahsildar.

9. Both the Courts below have held that the oral evidence of the respondents is corroborated by the revenue record. The counsel for the appellant is unable to point out any patent illegality in the findings recorded by Courts below.

10. The respondent No.2 is adopted by respondent No.1 by registered instrument. The adoption deed has not been challenged. The land allotted to respondent No.1 would devolve upon respondent No.2. Both Courts below have rightly appreciated the said aspects of the matter.

11. I find that no substantial question of law is involved in the second appeal.

12. Second appeal is dismissed.

(SHAILESH P. BRAHME, J.)

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vmk/-