



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 SECOND APPEAL NO. 60 OF 2022

AND

938 SECOND APPEAL NO. 61 OF 2022

Rayat Shikshan Sanstha, Satara
Through – its Secretary,

1. Dr. Bhausahab S/o Kisan Karale,
Age 55 years, Occ. : Service
R/o. 51/B SLC Ravivar Peth,
Karmveer Samadhi Parisar,
Satara, Dist. Satara.
2. Balkrishna Anantrao Kambale
Age 57 years, Occ. : Service-Principal
R/o. Principal Dada Patil College, Karjat
Tal. Karjat, Dist. Ahmednagar

... APPELLANTS
(Ori. Plaintiffs)

VERSUS

1. State of Maharashtra
2. Superintendent of Police,
Ahmednagar, Dist. Ahmednagar
3. Police Inspector
Karjat Police Station,
Tq. Karjat, Dist. Ahmednagar

... RESPONDENTS
(Ori. Defendants)

Mr. Dhorde Vikram R., Advocate for Appellants

Mr. S. S. Dande, AGP for Respondent/s – State in SA/60/2022

Mr. S. P. Joshi, AGP for Respondent/s – State in SA/61/2022

CORUM : **ROHIT W. JOSHI, J.**

DATE : **12th MARCH, 2025**

JUDGMENT:

1. The appellants in Second Appeal No. 60 of 2022 had filed a suit being Regular Civil Suit No. 266 of 2011 against the respondents herein *inter alia* seeking perpetual injunction against dispossession from area admeasuring 18 ares land in Block No. 755 of Village Karjat, Tahsil Karjat, District Ahmednagar without following due process of law. The defendants are State of Maharashtra represented through Collector, Superintendent of Police and Inspector of Police. The respondents filed a counter claim in this suit seeking declaration of ownership, possession as also relief of injunction. The learned Trial Court has dismissed the suit of the plaintiffs and has passed decree for possession in the counter claim filed by the respondents. Aggrieved by aforesaid, the appellants filed two separate appeals being Regular Civil Appeal No 245 of 2016 assailing the decree for possession passed in the counter claim and Regular Civil Appeal No. 244 of 2016 challenging the decree dismissing the suit for perpetual injunction. The learned First Appellate Court has confirmed the decrees passed by the learned Trial Court.

2. In that view of the matter, the present Second Appeal is filed by the original plaintiffs. Mr. V. R. Dhorde, learned advocate appearing for the appellants has canvassed that admittedly the appellants plaintiffs were in possession of the suit property. He points out from the findings

recorded by the learned Trial Court which are in turn confirmed by the learned First Appellate Court that the possession of the plaintiffs was a long standing possession and it was first noticed by the State Authorities in the year 1983. His contention is that after a period of twelve years from 1983, the appellants had perfected title over the suit property by adverse possession. He therefore, contends that the counter claim for possession filed by the respondents was liable to be dismissed and consequently a decree for perpetual injunction ought to have been granted in favour of the appellants in terms of the prayer made in the suit.

3. Per contra, Mr. S. P. Joshi, the learned AGP vehemently opposes the submissions made by the learned advocate for the appellants. He contends that a person can perfect title by adverse possession against a private individual or entity after a period of twelve years of open hostile possession, in view of article 65 of the Limitation Act which prescribes period of twelve years for filing a suit for possession based on title. He then draws my attention to Article 112 of the Limitation Act to contend that when a suit for possession is filed by the State the limitation prescribed is of 30 years and not of 12 years. In view of the aforesaid, he contends that in order to perfect title by adverse possession against the State open and hostile possession for a continuous period 30 years will have to be established. The learned AGP makes a

submission that even if it is assumed that the possession has become adverse from the year 1983, the counter claim is filed on 09.02.2012 which is within the period of 30 years.

4. Having heard the learned advocates as aforesaid and on perusal of the pleadings and evidence on record with their able assistance, I am unable to agree with the contentions advanced by the learned advocate for the appellants. It is true that normally a person in possession of property which is adverse and hostile to the real owner would perfect his title by adverse possession upon expiration of period of 12 years. That is so in view of Article 65 of the Limitation Act. Article 65 has to be read in conjunction with Section 27 of the Limitation Act which provides that at the determination of the period prescribed for institution of a suit for possession of any property, the right to property shall stand extinguished. Since the suit property is owned by the State and counter claim for possession is filed by the State, the limitation will be governed by Article 112 and not by Article 65. In that view of the matter, limitation in the present case would expire upon completion of 30 years of open and hostile possession. Since the counter claim is lodged within the said period of thirty years, it is filed within limitation and consequently it cannot be said that the appellants have perfected its title over the suit property by adverse possession.

5. In that view of the matter, I do not find any substantial question of law that arises for consideration in the present appeals. The Second Appeals are therefore, **dismissed** without any orders as to costs.

[ROHIT W. JOSHI]
JUDGE

KS_Kamble/