

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
SECOND APPEAL NO.241 OF 2024  
WITH  
INTERIM APPLICATION NO.11878 OF 2024**

Mr. Anant Waman Sawant,  
Age:-Occ:- Agriculturist  
Residing at village Parule,  
Taluka: Rajapur, District : Ratnagiri.  
Through POA Shri. Sharad Waman Sawant

..Appellant  
(Original Deft. No.1.)

Versus

- 1) Smt. Archana Prakash Shelar,  
Age: 53, Occ: Household,  
r/o; Parule, Taluka: Rajapur,  
Dist; Ratnagiri.
- 2) Aanand Suresh Sawant since deceased  
Through his L.Rs. :

(2-a) Amrut Anand Sawant, Age 32 yrs.

(2-b) Smt.Pallavi Anand Sawant, Age 55,  
Both residing at village Parule,  
Taluka: Rajapur, District : Ratnagiri.

..Respondents  
(No.1 Ori. Plff & No.2 Ori.  
Deft. No.2.)

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Mr. Nakul V. Shukla, Advocate for Appellant.

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**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 18<sup>th</sup> DECEMBER, 2025.**

**FINAL ORDER:-**

1. The appellant/original defendant no.1 impugns judgment and decreed dated 01.08.2023 passed by Principal District Judge, Ratnagiri in Regular Civil Appeal No.19/2018, thereby upholding judgment and decree dated 07.02.2018 passed by Civil Judge Junior Division, Rajapur in regular Civil Suit No.34/2010, whereby suit filed by

respondent no.1/original plaintiff for perpetual injunction against defendants has been decreed.

2. The respondent/plaintiff instituted regular Civil Suit No.34/2010 contending that she owns land Survey Nos.79/13 and 78/2 situated at village Parule, Taluka Rajapur. The defendants illegally cut down 52 Teakwood trees from suit field without any rights or concern. Hence, she required to file suit for relief as prayed. The defendants refuted plaintiff's claim contending that they have cut down trees after obtaining necessary permission from Government. The trees are not cut down from suit property. They are owners of land Survey No.78/1 and plaintiff is unconcerned with said property. It appears that, Trial Court framed issues based on pleading of parties. The plaintiff recorded her own evidence. However, defendants did not enter into witness box or adduce any evidence. The Trial court had caused inspection of suit site through Court Commissioner. The plaintiff examined Court Commissioner, who asserted that on visit to suit field 'A', he found 52 trees were severed from field. In result, Trial Court decreed suit. Aggrieved defendants filed Regular Civil Appeal No.19/2018, which came to be dismissed upholding judgment and decree passed by Trial Court.

3. Mr. Nakul Shukla, learned Advocate appearing for appellant submit that it was for plaintiff to prove that 52 severed trees were standing in her field, however, plaintiff failed to discharge burden by

adducing necessary evidence. He would further submit that appellant/defendant no.1 had filed application below Exhibit-20 before Appellate Court seeking permission to lead additional evidence at appellate stage in form of sketch of suit property, permission to cut trees issued by competent authority, decision of Judicial Magistrate First Class in SCC No.252/2010 and affidavit of Surveyor. The District Judge passed order that application would be considered at the time of final hearing of appeal. However, there is no whisper about evidence tendered by appellant alongwith application Exhibit-20.

4. Having considered submissions advanced by learned Advocate appearing for appellant, it can be observed that undisputedly plaintiff owns land Survey Nos.79/13 and 78/2 situated at Village Parule. She has specifically pleaded that 52 trees from her field have been illegally and unauthorisedly cut down by defendants. She made complaint regarding same to concerned Authorities. The plaintiff stepped into witness box and recorded her evidence in deference to pleading in plaint. She examined Court Commissioner, Advocate Shri Hardikar, who deposed that on visit to suit field, he found trees were cut down from Survey No.79/13 owned by plaintiff. The Trial Court as well as Appellate Court accepted aforesaid evidence and held that evidence of plaintiff and Court Commissioner alongwith annexures to his report are sufficient to accept case of plaintiff. Pertinently, defendants did not step into witness box. Although they denied that severed trees were

not from land of plaintiff, they did not specify location of trees in written statement. They did not step into witness box to prove their case.

5. Although record indicates that appellant had placed on record some documents by way of secondary evidence at appellate stage, it can be noted that such evidence was available with him at the time of filing written statement. No explanation is given as to why such evidence was not tendered during course of trial. In this background, there was no reason to entertain application filed by appellant for leading additional evidence at appellate stage.

6. In result, no substantial question of law arises for consideration in present Appeal. Hence, Second Appeal stands dismissed.

7. In view of dismissal of Second Appeal, pending Interim Application also stands disposed of.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**