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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 114 OF 2025
WITH
INTERIM APPLICATION NO. 1583 OF 2025**

Jaysing Sakharam Parit ... Appellant
Vs.
Parvati Pandit Lohar and Others ... Respondents

Mr. Suresh M. Kamble for the Appellant.

Ms. Savina Bangera (through VC) for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 10th MARCH 2025

ORDER :

1. Heard learned counsel for the appellant. This appeal is preferred by the defendant to challenge the concurrent judgments and decrees directing the appellant/defendant to hand over possession of the suit property.

2. Learned counsel for the appellant submits that though the appellant had not filed any written statement, he filed application for leading evidence before the first appellate court. He submits that his application was allowed and the documents produced by the

appellant being public documents were considered by the first appellate court. He further submits that both the courts ignored that the plaintiffs failed to produce any agreement or document of title of the suit property. He submits that admittedly gram panchayat is the owner of the suit property and thus in the absence of the gram panchayat being party defendant, the plaintiffs' suit based on title could not have been decreed. He submits that the documents produced by way of additional evidence has been considered by the first appellate court. However, the first appellate court ignored that the documents on record relied upon by the trial court and the subsequent documents produced in the appellate court would not indicate that the plaintiffs are owners of the suit property. He therefore submits that the second appeal would require consideration as the aforesaid grounds raise substantial questions of law.

3. I have perused the papers of the second appeal and the documents produced by the appellant by way of additional evidence. There is no dispute that the suit was decreed ex-parte against the defendant. There was no attempt made on behalf of the defendant for getting the ex-parte decree set aside and file his written statement.

4. The trial court relied upon gram panchayat resolution no. 89 of the property in the name of the plaintiffs to accept the plaintiffs' title over the suit property.

5. The documents relied upon by the plaintiffs were accepted by the trial court to hold that the defendant had no right to continue in the suit property in the absence of any counter filed by the defendant. The plaintiffs' contention that the suit property was given to the defendant on temporary basis was accepted. Hence, by accepting the plaintiffs' lawful right over the suit property based on the gram panchayat resolution and assessment extracts on record the suit was decreed in favour of the plaintiffs.

6. The first appellate court has examined the documents relied upon by the appellant. None of the documents relied upon by the appellant are in favour of the defendant. Even otherwise in the absence of any supporting pleadings or any evidence led by the defendant, the documents would not be of any assistance to the appellant to seek any right in respect of the suit property.

7. Hence, the first appellate court has rightly refused to accept the arguments on behalf of the defendant claiming to be in lawful possession of the suit property. The first appellate court has thus rightly confirmed the trial court's findings in absence of any written

statement and the evidence led by the plaintiffs remaining uncontroverted. The documents relied upon by the plaintiffs and the supporting oral evidence is not controverted as admittedly the defendant never appeared in the suit though served. Hence, the argument raised on behalf of the appellant would not require any consideration by this court.

8. The second appeal does not raise any substantial question of law. Hence, the second appeal is dismissed.

9. In view of the dismissal of the second appeal, interim application is disposed of as infructuous.

[GAURI GODSE, J.]