

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.562 OF 2018**

1. Shri Dharma Hariba Randive,
Age:- 53, Occ:- Service

2. Sou. Suman Dharma Randive,
Age: 48, Occ: House work,
R/o. Dighanchi, Tal. Atpadi,
Dist. Sangli.

..Appellants
(Orig. Defendants)

Versus

Randive Mohan Damu,
Age: 43, Occ: Business,
R/o. Dighanchi, Tal. Atpadi,
Dist. Sangli.

..Respondent
(Original Plaintiff)

...

Mr. Ajay A. Joshi, Advocate for Appellants.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th NOVEMBER, 2025.**

FINAL ORDER:-

1. The appellants/original defendants impugns judgment and decree dated 16.03.2017 passed by District Judge, Sangli in Regular Civil Appeal No.306/2009, thereby upholding judgment and decree dated 27.11.2009 passed by Civil Judge Junior Division at Atpadi in Regular Civil Suit No.83/2001. (Hereinafter, parties are referred to by their original status for the sake of convenience and brevity).

2. The respondent/plaintiff instituted suit for injunction claiming that suit property i.e. Grampanchayat House No.2441, which is part of City Survey No.1601 admeasuring 15x25 ft. is his ancestral

property. The defendant nos.1 and 2 are unconcerned with suit property. The plaintiff initiated construction on suit property, which has been obstructed by defendants. Hence, plaintiff constrained to institute suit.

3. The defendants appeared and refuted plaintiff's claim on the ground that description of suit property is incorrect. The CTS No.1601 is jointly owned by defendants and other persons. The plaintiff has illegally recorded his name as owner of Grampanchayat House No.2441. According to defendants, plaintiff's father has given his land to one Pandurang Randive. The plaintiff is residing elsewhere in village. The plaintiff has no right over suit property.

4. The Trial Court framed issues based on pleading of parties, recorded evidence and after hearing decreed suit, thereby restraining defendants from obstructing peaceful possession of plaintiff over suit property. The Trial Court recorded findings that plaintiff is owner and possessor of property and defendants have obstructed his peaceful possession. Aggrieved defendants filed Regular Civil Appeal No.306/2009 before District Judge, Sangli, who dismissed Appeal concurring with findings recorded by Trial Court. Hence, this Second Appeal.

5. Mr. Ajay Joshi, learned Advocate appearing for appellants would submit that there is serious dispute as to identification of suit

property. The CTS No.1601 consists of several co-owners. The name of plaintiff is nowhere disclosed as co-sharer in property. The Courts have erroneously relied upon Grampanchayat record, which is for purpose of revenue assessment and does not confer any title. The name of plaintiff's father was recorded as co-owner in CTS No.1601 alongwith others, however, there is no specific evidence to accept plaintiff's ownership and possession over suit property as shown in plaint. He would, therefore, urge that Second Appeal deserves to be admitted on point of identification of property and plaintiff's ownership on suit property as described in plaint.

6. Having considered submissions advanced, it can be observed that CTS No.1601 comprises various portions of land left between City Survey Nos. 1602, 1603, 1604, 1605, 1606, 1607, 1608 and 1600. The area of CTS No.1601 is 442.3 sq. meters. The plaintiff claims his right over 25x15 feet portion from CTS No.1601, which is given Grampanchayat House No.2441. The Grampanchayat extract depicts that said property is part of CTS No.1601. Pertinently, there is no survey record to identify properties in ownership and possession of land holders from CTS No.1601. Their names are commonly entered.

7. The defendant no.1 in his cross-examination admitted that CTS No.1601 was owned by father of plaintiff, father of defendants and other persons. Although it is contention of defendants that plaintiff's

father transferred his land to Pandurang Randive, his name is not appearing in record of CTS No.1601. Further defendants could not bring on record material to show mode of transfer of ownership by plaintiff's father in favour of Pandurang. As per evidence tendered by parties, there are 9 shareholders in CTS No.1601, which includes plaintiff and defendants. Admittedly, all of them are enjoying ownership and possession of independent and specific portion of area.

8. The Courts have concurrently held that land holders in CTS No.1601 have constructed their own houses/sheds and there is some vacant portion. It is also observed by Courts that defendants have admitted four boundaries of suit property.

9. The aforesaid evidence and observations of Courts depicts that plaintiff has clearly brought on record identification of suit property. Undisputedly, plaintiff's father was co-sharer in land CTS No.1601 alongwith others. The Grampanchayat has recorded plaintiff's property as House No.2441. The building permission is also granted in his favour. The defendants are trying to set up case that son of defendant no.1 runs tea stall over suit property. However, defendants could not bring evidence on record to show four boundaries of Tea Stall or that said Tea Stall forms part of suit property. Therefore, except suggestion given by defendants to plaintiff's witness about existence of Tea Stall in suit property, no material is brought on

record in support of such contention. Pertinently, aforesaid defence was not put to plaintiff's witness during cross-examination.

10. The aforesaid discussion reveals that both Courts on appreciation of evidence recorded concurrent findings of fact that plaintiff is owner and possessor of suit property. No perversity in appreciation of evidence is discernible from impugned judgments. Although learned Advocate appearing for appellants endeavours to urge that there is serious dispute as to identification of property, Appellate Court has specifically observed that in view of admission given by defendants, identification of property or four boundaries of suit property is well established.

11. In that view of matter, no substantial question of law arises for consideration in this Appeal. Hence, Second Appeal stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE