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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 449 OF 2022
WITH
INTERIM APPLICATION NO. 3305 OF 2022**

Ramesh Sadashiv Lad ... Appellant
Vs.
Kamlakar Kashiram Salkar ... Respondent

Mr. Sanskar Marathe for the Appellant.

CORAM : GAURI GODSE, J.

DATE : 31st JANUARY 2025

ORDER :

1. Heard learned counsel for the appellant. This appeal is preferred by the defendant to challenge the concurrent judgments and decrees granting injunction against the appellant. The trial court decreed the respondent's suit for injunction restraining the appellant from disturbing the plaintiff's possession over the suit property.

2. Learned counsel for the appellant submits that the suit for injunction was filed on the ground that the 32M certificate under the The Maharashtra Tenancy and Agricultural Lands Act, 1948 is issued in the name of plaintiff's predecessor, in respect of the suit property. He submits that the suit property is described as Survey No. 19 Hissa No. 3/3. However, the 32M certificate produced on

record is in respect of Survey No. 105. He therefore submits that the plaintiff's possession over the suit property is erroneously accepted based on the document which does not tally with the description of the suit property. He further submits that the defendant produced on record Form No. 8 of his house property to support his contentions that he was in possession of the suit property.

3. Learned counsel for the appellant thus submits that the plaintiff's possession is accepted in respect of the suit property based on the documents which do not support the plaintiff's possession regarding description of the property. He submits that the documents produced on record by the appellant, supports his contention that he is in possession of the suit property. Learned counsel for the appellant therefore submits that the second appeal would require consideration on the point that the impugned judgments and decrees are passed based on incorrect appreciation of the evidence on record.

4. I have perused both the judgments. The difference with regard to the description of the suit property in the plaint and certificate under Section 32M is clarified by the first appellate court by examining the revenue record. The first appellate court recorded a finding of fact that the Survey No. 105 mentioned in 32M certificate

is sub-divided and a new survey number is given to the property i.e. Survey No. 19/3/3. There are supporting revenue records to arrive at this finding. Admittedly, the revenue record in the name of the plaintiff are never challenged by the defendant. The findings recorded by the first appellate court clarifies the description of the property in the plaint and the description in the certificate under section 32M to be one and the same property. This finding is based on appreciation of the revenue record which is placed before the court.

5. I do not see any illegality or perversity in the findings recorded by both the courts. The argument raised on behalf of the appellant would require reexamination of the evidence on record which is not permissible under Section 100 of the Civil Procedure Code, 1908.

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

7. In view of the disposal of the second appeal, interim application is disposed of as infructuous.

[GAURI GODSE, J.]