

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
SECOND APPEAL NO.613 OF 2022
WITH
CIVIL APPLICATION NO.1155 OF 2019
IN
SECOND APPEAL NO.613 OF 2022**

1. Shridhar Sakharam Satpute
[Deceased through his legal heirs]
 - 1/1] Smt. Ratan Shridhar Satpute,
Aged 67 Yrs, Occ. Household,
 - 1/2] Deepak Shridhar Satpute,
Aged 46 Yrs, Occ. Service,
 - 1/3] Ganesh Shridhar Satpute,
Aged 45 Yrs, Occ. Service,
 - 1/4] Sachin Shridhar Satpute,
Aged 43 Yrs, Occ. Education,
 - 1/5] Rupali Shridhar Satpute,
Aged 31 Yrs, Occ. Education,
 - 2] Vishnu Sakharam Satpute,
Aged 61 Yrs, Occ. Service,
 - 3] Ramesh Sakharam Satpute,
Aged 54 Yrs, Occ. Trade,
 - 4] Mohan Sakharam Satpute,
Aged 46 Yrs, Occ. Service,
 - 5] Shashikant Sakharam Satpute,
Aged 52 Yrs, Occ. Service,
 - 6] Piraji Sidrayya Bandari
[Deleted in Lower Court],
All R/O. Sanglives, Miraj, Dist. Sangli. ..Appellants
- Versus
- 1] Balwant Dnyanu Satpute
[Deceased through his legal heirs]
 - 1/1] Smt. Sonabai Balwant Satpute,
Aged 81 Yrs, Occ. Nil,
R/O. Shivaji Road, Near
Shivshankar Talkies, Miraj,
Dist. Sangli.

- 1/2] Sudhakar Balwant Satpute,
Aged 56 Yrs, Occ. Service,
R/O. Bharatnagar, Miraj,
Dist. Sangli.
- 1/3] Sou. Sushila Ashok Bakle,
Aged 53 Yrs, Occ. Household,
R/O. Thane.
- 1/4] Sou. Asha Chitamani Nirmale,
Aged 53 Yrs, Occ. Service,
R/O. Patel Chowk, Jaysingpur,
Tal. Shirol, Dist. Kolhapur.
- 1/5] Vithal Balwant Satpute,
Aged 58 Yrs, Occ. Trade,
R/O. Shivaji Road, Near
Shivshankar Talkies, Miraj,
Dist. Sangli.
- 1/6] Sou. Chhaya Prabhakar Suryawanshi,
Aged 43 Yrs, Occ. Household,
R/O. Hubli, Dist. Dharwad.
- 2] Madhukar Maruti Satpute
[Deceased through his legal heirs]
- 2/1] Smt. Rajeshree Madhukar Satpute,
Aged 51 Yrs, Occ. Household,
- 2/2] Ganesh Madhukar Satpute,
Aged 33 Yrs, Occ. Education,
- 2/3] Yogesh Madhukar Satpute,
Aged 26 Yrs, Occ. Education,
- 2/4] Supriya Madhukar Satpute,
Aged 23 Yrs, Occ. Education,
[Being minor represented by her
mother Respondent No.2/1],
All R/O. Sanglives, Miraj,
Dist. Sangli.
- 3] The Special Recovery Officer,
The Miraj Urban Co-op. Bank Ltd.,
Miraj Station Road, Miraj, Dist. Sangli.
- 4] Dharmaji Piraji Satpute,
Aged 71 Yrs, Occ. Trade,

5] Abaji Piraji Satpute,
Aged 66 Yrs, Occ. Service,
Nos. 4 and 5 R/O. Sanglives,
Miraj, Dist. Sangli. ..Respondents

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Mr. Gajana M. Savgave, Advocate for Appellants.
Mr. Amit Sale a/w Mr. Shreyas Karajgar a/w Ms. Anjali Karpe,
Advocate for Respondents.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 01st DECEMBER, 2025.

JUDGMENT:-

1. The present Second Appeal takes exception to judgment and order dated 26.09.2018 passed by District Judge, Sangli in Regular Civil Appeal No.477/2012, thereby upholding judgment and decree dated 06.07.2012 passed by Civil Judge Junior Division, Miraj in Regular Civil Suit No.4/2005.

2. The respondent nos.1 and 2 instituted Regular Civil Suit No.4/2005 seeking relief of removal of encroachment, possession and perpetual injunction against defendants. It is their contentions that they are owners of CTS No.6494 admeasuring 76.2 sq. mtrs. situated at Sangli Ves, Miraj, more particularly described in plaint. The appellants/defendants are owners of adjacent properties. In year 1999 defendants started new construction adjacent to plaintiffs' building. They encroached upon part of CTS No.6494 and carried out illegal construction. On 17.11.1999, plaintiffs caused measurement of property through Competent Authority. It was revealed that

defendants have encroached upon part of CTS No.6494. The plaintiffs requested them to remove encroachment. Although they assured to remove the same, did not act upon their assurance. On 01.01.2005, they removed measurement stones and other articles from suit property and made further encroachment. The plaintiffs approached police, however, no cognizance was taken. Hence, they filed suit.

3. The defendants refuted plaintiffs' claim. During pendency of suit, defendant nos.1 and 2 entered into compromise and filed pursis Exhibit-67. Therefore, suit was decreed against them on 11.01.2010. The defendant nos.3 to 7 also filed written statement and refuted plaintiffs' claim. They contended that since last more than 80 years they have construction and permanent houses on CTS No.6493, 6494/A and 6494/B. The construction is made by their predecessor in title namely Sakharam Dhondi Satpute. It is standing since 1950-51. They denied correctness of measurement of 1999 and in alternatively pleaded that they acquired ownership by adverse possession.

4. The Trial Court framed issues based on pleading of parties, recorded evidence and finally decreed suit holding that plaintiffs are owner of suit house and defendants have encroached by making unauthorized construction. Eventually, passed decree for removal of encroachment and possession in favour of plaintiffs. Aggrieved defendants filed Regular Civil Appeal No.477/2012 before District

Judge, Sangli, who dismissed same upholding judgment and decree passed by Trial Court.

5. Mr. Gajanan Savgave, learned Advocate appearing for appellants would submit that plaintiffs have not proved their ownership over suit property by producing title documents. They simply relied upon city survey record. The plaint is non-compliant of Order VII Rule 3 of Code of Civil Procedure, as description of property was not adequate. He would submit that CTS Nos.6493/A and 6493/B are purchased by forefathers of defendants. They were in possession of property since 52 to 60 years. As such, even it is assumed that there is encroachment, defendants acquired title by way of adverse possession. He would further submit that measurement dated 17.11.1999 and map prepared by TILR is unacceptable and same could not have been relied upon.

6. Per contra, Mr. Amit Sale, learned Advocate appearing for respondents supports impugned judgment and decrees. He would submit that concurrent finding of facts have been recorded by Courts below. No substantial question of law arises for consideration in this Appeal. All contentions raised on behalf of appellants are essentially relating to factual matrix of matter and does not raise substantial questions of law requiring interference of this Court in exercise of jurisdiction under Section 100 of Code of Civil Procedure.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that plaintiffs are

owner of CTS No.6494. There is hardly dispute as regards to ownership of plaintiffs. Although defendants are cursorily denying same, but no dispute is raised to city survey record placed into service by plaintiffs. Even during course of evidence and cross-examination, they indirectly admitted ownership of plaintiffs over suit property bearing CTS No.6494. Both Courts have appreciated oral and documentary evidence tendered into service on behalf of parties and recorded finding that plaintiffs have proved their ownership.

8. The contentious issue arisen between parties is as regards to encroachment made by defendants on CTS No.6494. The plaintiffs relied upon measurement dated 17.11.1999. They relied upon evidence of Shivaji Nivarutti Bhosale examined at Exhibit-102. The Senior Superintendent, TILR, Sangli has accepted aforesaid measurement to be true and correct. Per contra, defendants relied upon oral evidence of Deepak Shridhar Satpute, who placed on record copy of sale deeds and construction permissions. The Trial Court upon appreciation of evidence on record concluded that plaintiffs are owners of suit property. The measurement dated 17.11.1999 by PW-2 is made in presence of defendants. C-Sheet of measurement map placed at Exhibit-111 is duly proved, which depicts encroachment made by defendants on plaintiffs' property in CTS No.6494. The Appellate Court also relied upon measurement map and certain admissions given by DW-1 that they purchased property knowing that there is encroachment and fact that plaintiffs are owners of CTS No.6494.

Pertinently, defendants have not challenged measurement dated 17.11.1999 to higher authorities. The Appellate Court has referred to documents below Exhibits 39/3, 94/4 and 94/5 depicting that correctness of measurement dated 17.11.1999 is approved by Competent Authority. Plaintiffs have proved their case on the basis of admissible evidence.

9. So far as defence of adverse possession is concerned, plaintiffs have specifically pleaded that defendants have raised new construction in year 1999 and 2005, whereby encroachment is caused upon their property. In year 1999, after measurement first time they came to know about exact area of encroachment by defendants. This statement in plaint is shown as cause of action for filing suit. The defendants could not establish that encroached area shown in measurement map is part of old construction of house standing for more than 50 years. The defendants have not laid particular evidence in support of their claim that they acquired ownership by way of adverse possession.

10. In that view of matter, no case is made out to accept defence on this point. In result, no substantial question of law arises for consideration on this Appeal. Hence, Second Appeal stands dismissed.

11. In view of dismissal of Second Appeal, pending Civil Application also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE