



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

SECOND APPEAL NO.544 OF 2006

Amended as per
Court's order dated
08.05.2014.

Ambadas Laxman Khanzode
(dead) Through LRs
Dr. Mohini Ashok Ganu
Aged about 53 years, Occ: Professional/Doctor,
R/o Sanjeevan Hospital, Majge Nagar,
Kava Road, Latur-413512
District Latur. **.....APPELLANT**

...V E R S U S...

1. State of Maharashtra
Through Collector,
Chandrapur.
2. Sub-Divisional Officer,
Rajura, Distt. Chandrapur.
3. Tahsildar, Rajura
Distt. Chandrapur.
4. Talathi of Soza Pandarpauni,
Tah. Rajura, Distt. Chandrapur. **...RESPONDENTS**

Shri A.C. Dharmadhikari, Advocate for appellant.
Ms M.R. Kavimandan, AGP for respondent nos.1 to 3.

CORAM:- M.W. CHANDWANI, J.

DATED :- 26.02.2025

ORAL JUDGMENT:

. The appeal takes an exception to the judgment of Civil
Judge, Senior Division, Chandrapur in Regular Civil Suit No.50 of

1986, whereby the appellant was non-suited on the point that the suit is barred by law of limitation. The judgment of the trial Court was confirmed by the first appellate Court in Regular Civil Appeal No.19 of 1997.

2. By the order dated 17.03.2008, the following substantial question of law came to be framed :

“Whether the suit could have been said to be barred by limitation in view of the provisions contained in Section 138(4) of the Maharashtra Land Revenue Code, 1966?”

3. For answering the substantial question of law, it is not necessary to go into the matrix of the case in detail, it will suffice to say that the appellant filed a suit for declaration and injunction praying for the following relief:

“a) that it be declared that the plaintiff is the owner of land bearing old S.No.48, new survey No.16 having an area of 8 acres and 23 gunthas.

b) that it be further declared that the reduction of plaintiff's area from 8 acres 29 gunthas to 7 acres 4 gunthas is illegal, unjust and improper.

c) that a decree for mandatory injunction directing the defendants to correct the revenue records by showing the area of 8 acres 29 gunthas in respect S.No.16 may kindly be passed.

C-A) It be declared that the plaintiff is the owner of land shown by Letters “ ” in general and “ ” in particulars in the plaint map. The defendants be restrained

from interfering with the plaintiff's possession over the land shown by Letters “ ” in the plaint map.

d) that a decree for permanent injunction restraining the defendants from interfering with the possession of the plaintiff over 8 acres and 29 gunthas of land covered by old survey No.48 and now survey no.16 of mouza Chandvahi may kindly be passed against the Defendants.

e) the cost of the suit may kindly be saddled on the defendants and;

f) such other relief as this Hon'ble Court deems fit may kindly be granted.”

4. Thus, the suit was essentially based on the correction made in the revenue record in wake of the settlement of boundary under Section 138 after coming into force of the Maharashtra Land Revenue Code (for short “**MLR Code**”) by repealing the Hyderabad Record of Rights in Land Act. The period of limitation for correction under Section 158 has been prescribed by the MLR Code as one year and after one year there is a bar to the suit. Section 158 is reproduced here:

“158. Bar of suit

No suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any entry omitted or amended.”

5. Perusal of the pleadings as well as prayer goes to show that the appellant is aggrieved by reduction of area of the land allotted to him by way of settlement of boundary mark which has been done in the settlement of the year 1962-63. Evidently, the suit is filed on 26.10.1983 which is after more than twenty years of the settlement survey done by the State Government. Therefore, the finding of the trial Court as well as the appellate Court that the suit is barred by law of limitation does not require interference.

6. It is contended on behalf of the learned counsel for the appellant that legal representatives of the original plaintiff are still in possession of the suit property. Be that as it may, the plaintiff has filed a suit for declaration which is barred under Section 158 of the MLR Code. Therefore, no interference is required and the second appeal is dismissed.

(JUDGE)

Wagh