

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 229 OF 2026

Raghunath Kachru Kolhe

..Appellant

Versus

Bhilu Shankar Jadhav

...Respondent

WITH

INTERIM APPLICATION NO. 3372 OF 2026

IN

SECOND APPEAL NO. 229 OF 2026

Mr. Vikram Walawalkar, with Neha Parte, Pratik Sabrad for the
Appellant.

CORAM: N. J. JAMADAR, J.

DATE : 6th MAY 2026

ORAL ORDER:

1. The challenge in this Appeal is to a judgment and decree dated 15th April 2025 passed by the learned District Judge, whereby the Appeal preferred by the Appellant against a judgment and decree dated 18th June 2025 passed in RCS No. 21 of 2019 by the Trial Court thereby declaring that the Mutation Entry No. 409 mutating the name of Defendant No.1 to the agricultural land bearing Gat No.383 was null and void, and directing Defendant No.1 to handover the possession of the said land to the Plaintiff, came to be dismissed.

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2. Mr. Walawalkar, the learned Counsel for the Appellant, submitted that the learned District Judge despite recording a finding that the Trial Court had come to a wrong conclusion that Defendant No.1 had committed encroachment over the suit land and that the claim of the Plaintiff that in the year 2007, Defendant No.1 had dig a well in the suit land was unsustainable, dismissed the appeal. Having recorded the said findings, the learned District Judge ought to have dismissed the suit of the Respondent.

3. The claim of the Defendant No.1 rests entirely on Mutation Entry No. 409 by which the suit land was purportedly transferred by the father of the Plaintiff. There is no other instrument. Nor the Defendant No. 1 claims that the suit land came to be transferred to Defendant No.1 by any of the recognized modes of transfer of the property inter vivos. It is trite, mutation entries do not make or unmake title.

4. Even if the case of Defendant No.1 that the father of the Plaintiff had given the suit land to Defendant No.1, is taken at par, yet, the title would continue to vest in the father of the Plaintiff, during his lifetime, and after his demise, in the Plaintiff.

5. Even at the highest, the claim of possession of Defendant No.1 remained permissive and learned District Judge has rightly concluded that Defendant No.1 was in permissive possession of suit land. Though Defendant No.1 had filed a counter claim, it was nowhere claimed that

Defendant No.1 has perfected the title over the suit land by way of adverse possession.

6. In view of the above, no question of law, much less a substantial question of law, arises for consideration.

7. Second Appeal stands dismissed.

8. In view of the dismissal of the Second Appeal, Interim Application stands disposed.

[N. J. JAMADAR, J.]