



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

SECOND APPEAL NO. 07 OF 2025

(GOVINDA S/O. KISAN MAKDI

VS

BABURAO BARSUJI MAKDI (DEAD) LRS. SMT.LAXMIBAI BABURAO MAKDI THR. P.O.A.
HOLDER LALITA R. NANDANWAR)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. C.N.Deshpande, Advocate for appellant.

Mr. V. B. Gawali, Advocate for respondents.

CORAM : ROHIT W. JOSHI, J.

DATED : MARCH 23, 2026

1) The appellant in the present appeal is original plaintiff. He filed a suit for possession against the defendant/respondent No.1. The plaintiff/appellant and respondents are cousins (sons of real brothers). It is the case of the plaintiff that his father was exclusive owner of the suit property and that after the demise of father his mother had inducted the defendant/respondent No.1 as gratuitous licensee in the suit property. In order to prove the ownership of his father, the plaintiff has placed reliance on certain tax receipts and entries in Grampanchayat record. The learned trial Court has decreed the suit accepting the case of the plaintiff.

2) The learned first appellate Court has reversed the decree in appeal preferred by the present respondents. It is clearly borne from the record that the parties are sons of real brothers, the plaintiff has not filed any title deed on record, the plaintiff averments and documents are absolutely silent with respect to the income of the plaintiff's father. The learned first

appellate Court has therefore, found that the plaintiff has failed to prove his absolute ownership over the suit property. The learned first appellate Court had accepted the contention of defendant/respondent No.1 that the property was owned by grandfather of the parties and thereafter, it was divided between their respective fathers, with one house being in possession of the plaintiff and other house being in possession of the defendant.

3) Since the plaintiff claims decree for possession contending that the defendant is a gratuitous licensee, it is necessary for the plaintiff to prove ownership over the suit property or at least the fact that the defendant was inducted by his mother as a licensee.

4) I am in complete agreement with the learned first appellate Court that the plaintiff has neither filed title deed on record nor has led evidence with respect to income of his father to purchase the suit property and as such has failed to prove exclusive ownership over the suit property. The evidence on record also does not indicate that as to when and how defendant/respondent No.1 was inducted as licensee. Rather the evidence will indicate that the electricity connection and water connection with respect to suit property is in the name of defendant. It has also come on record that the defendant had let out a portion of the suit property to one of his relative to which the plaintiff did not object.

5) The view taken by the learned first appellate Court is based on appreciation of evidence on record. The learned trial Court has given undue importance to Grampanchayat record in the absence of any title deed and more particularly in the absence of any pleadings or evidence with respect to separate

source of income of plaintiff's father to purchase the suit property. The judgment delivered by the learned first appellate Court is just and proper. The finding that the plaintiff has failed to prove exclusive ownership or that the defendants were inducted as gratuitous licensee is just and proper and does not warrant any interference.

- 6) The second appeal does not give rise to any substantial question of law and is dismissed accordingly with no order as to costs.

(ROHIT W. JOSHI, J.)