



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

SECOND APPEAL NO.35 OF 2024

Ramaji s/o Dholiya Korku (deceased) thru. LR's Jijibai and ors.

Vs.

Manang Jake Dhikar (deceased) thru LR's Bhuralal and ors.

*Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order*

Court's or Judge's Order

Mr. Hitesh Biherani, Advocate for appellants.

Mr. V. A. Kothale, Advocate for respondent No.4.

CORAM : ROHIT W. JOSHI, J.

DATE : 20.01.2026.

. The present appeal is filed by the original plaintiffs, who had filed suit for possession with respect to suit property which is a piece and parcel of land admeasuring 1.63 H.R. in Survey No.17 (old Survey No.26). The defendants, in turn, filed a counterclaim seeking possession of 4.31 H.R., land, which is in possession of the plaintiffs.

2. The learned Trial Court has dismissed the suit and has decreed the counterclaim. The plaintiffs preferred an appeal, which came to be dismissed. Against these concurrent decrees the present second appeal is filed.

3. Perusal of the plaint and the written statement will demonstrate that predecessor of the plaintiffs, namely Dholiya, is real brother of defendant No.1- Manang Jake Dikar. Land bearing Survey Nos.25 and 26, which are now re-numbered as field Survey Nos.17,

18,19, 20, 30 and 31, situated at Village Kasaikheda were initially recorded in the name of Dholiya Korku, father of the plaintiff. These entries in the revenue record were existing since the year 1943-44.

4. Dholiya Korku died somewhere in the year 1950. After the demise of Dholiya, the Jamabandi record was corrected in the year 1951-1952, wherein the properties bearing survey Nos.25 and 26 were mutated in the name of, "Nattu Dholiya, legal guardian Julay, wd/o Dholiya, uncle Jake Manang Korku". Nattu as can be seen from paragraph 28 of the judgment of the learned Trial Court, was the eldest son of Dholiya. The learned Trial Court has recorded that after the demise of Dholiya, the name of Jakir, father of defendant No.1 (brother of Dholiya) was recorded for the first time in the revenue record in the year 1951-1952 and that his name was mentioned along with the word "uncle". On this basis, the learned Trial Court had recorded that the name of Jakir was probably recorded not as a shareholder, but merely in capacity of uncle of Nattu, eldest son of Dholiya in whose name the property was recorded.

5. Then there is a reference to a document which is at Exhibit 33, which is a Jamanbandi Patra for the year 1956-1957 for the aforesaid lands bearing Survey Nos.25 and 26, wherein the name of Nattu Shikari, eldest son of Dholiya Manang, and Ramji Valda Dholiya Manang Wd/o Dholiya Manang are recorded along with Manang,

Kaliya, Sukhlal and Jake Manang. The words Bhau Hissa (brother's share) are specifically recorded in this document at Exhibit 33 i.e. Jamabandi Patra of the year 1956-1957.

6. The learned Trial Court has recorded that in the year 1956-1957, the words "brother's share" were recorded for the first time in the revenue record. The learned Trial Court has further held that the document at Exhibit 33, when read in the light of old revenue records, will indicate that initially the property was allotted only to Dholiya, father of the plaintiffs, however, subsequently names of both the branches, i.e., branch of plaintiff and defendants were recorded in the revenue record.

7. Referring to the cross-examination of defendant No.1 by the Advocate for the plaintiff wherein the suggestion was given with respect to partition of old Survey No.26. The learned Trial Court has held that there was a partition in the family in the past. Thereafter, the learned Trial Court has referred to Jamabandi Patra of the year 1958-1959, at Exhibit 62, in which the names of plaintiffs and their ancestors are recorded with respect to land bearing Survey No.25 and the names of defendants and their ancestors are recorded with respect to land bearing Survey No.26, (renumbered as Survey No.17), which is the suit property. On the basis of this revenue document of the year 1958-1959, the learned Trial Court has recorded a finding of partition and has

held that land bearing Survey No.25 fell to the share of plaintiffs and Survey No.26 fell to the share of defendants. This entry of the year 1958-1959 is continuing since then.

8. Although revenue record is relevant only for fiscal purpose and cannot be treated as a document of title, in the case at hand both the parties do not have any title document. The case of both parties is based on revenue records. Although initially the revenue record stood in the name of father of the plaintiffs (Dholiya), it is their specific case as can be seen from suggestions given in the cross-examination of defendants' witness, that there was a partition in the family earlier. This suggestion cannot be viewed in isolation. It finds strong corroboration in the form of longstanding entries in revenue records. It is also well settled that a longstanding entry in revenue record has a strong presumptive value. There are longstanding entries in revenue record showing right of the defendants over the suit property.

9. The learned Trial Court has taken a possible view of the matter while dismissing the suit for declaration and possession of 1.63 H.R., land in the suit property and decreeing the counterclaim for possession of 4.31 H.R., land in the suit property.

10. Perusal of the judgment by the learned First Appellate Court will further indicate that the learned

First Appellate Court has also re-appreciated the evidence and has dismissed the appeal accordingly.

11. The view taken by both the learned Courts is a possible view of the matter. The findings are based on documentary evidence as also the case of the plaintiff regarding prior partition.

12. In view of the aforesaid, the concurrent decrees passed by the learned Courts do not warrant any interference in a Second Appeal. Second Appeal is **dismissed** as it does not give rise to any substantial question of law.

(ROHIT W. JOSHI, J.)

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