



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

SECOND APPEAL NO.65 OF 2024

Gumfabai Premanand Kakde (dead) thru. Rajendra and ors.

Vs.

The State of Maharashtra and anr.

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

Court's or Judge's Order

Ms. S. V. Dhore, Advocate for appellants.

Mr. H. D. Dubey, AGP for respondent(s)/State

CORAM : ROHIT W. JOSHI, J.

DATE : 19.01.2026.

. The present second appeal takes exception to the concurrent decrees passed by the learned Civil Judge, Senior Division, Link Court, Mehkar, District Buldana in Regular Civil Suit No.79 of 2010 and judgment and decree dated 26.07.2023 passed by the learned District Judge-1, Mehkar, District Buldana in Regular Civil Appeal No.134 of 2019.

2. The present appellants are the legal representatives of original plaintiff, Gumfabai Kakde and the respondents are the original defendants. Hereinafter parties will be referred as 'plaintiff' and 'defendants'.

3. The original plaintiff had filed the aforesaid suit seeking declaration of ownership over the land bearing Survey No.79, renumbered as Gat No.444, situated at Village Kingaonraja, District Buldana to the extent of 3 Acres 2 Gunthas.

4. It is the case of the plaintiff that land admeasuring 12 Acres in Survey No.79 was allotted to her grandfather-in-law, namely late Bhikardas Harkuji. It is stated that the suit property comprises of a stretch of land admeasuring 3 Acres and 2 Gunthas which is adjoining the said land which was allotted to the grandfather-in-law of the plaintiff. The plaintiff claims that the family is in possession of the suit property since the year 1969 and that by virtue of long standing possession, the plaintiff has perfected tile over the suit property by adverse possession.

5. The learned Trial Court has dismissed the suit and the said decree came to be confirmed by the learned First Appellate Court.

6. The learned Advocate for the appellant/original plaintiff contends that the suit property was in possession of the family since long and the said fact is corroborated by documentary evidence in the form of 7/12 extracts which are at Exhibits 40,41 and 54.

7. Perusal of the judgments delivered by the learned Courts will indicate that the plaintiff had categorically admitted, during the course of her cross-examination, that her possession was restricted to the area of land which was allotted to her grandfather-in-law. It is not in dispute that the grandfather-in-law was allotted only 12 Acres of land and not the suit property, which is a land adjoining the said allotted land. In view of the aforesaid

admission, it cannot be said that the findings recorded by the learned Courts with respect to possession are perverse.

8. Likewise, the 7/12 Extracts also demonstrate that entry with respect to possession of plaintiff over the suit property is recorded only since the year 2005. The suit is filed in the year 2010. Assuming the possession, the alleged possession became adverse since the year 2005, it cannot be said that the plaintiff had perfected her title by adverse possession by the year 2010 when the suit was filed.

9. Likewise, the record also indicates that the suit property is reserved for grazing of cattle and also for road. In view of the aforesaid, the authorities cannot be directed to consider the prayer for allotment of suit property to the plaintiff.

10. In the light of aforesaid, no substantial question of law arises for consideration in the Second Appeal. Second Appeal is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)

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