



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

SECOND APPEAL NO.129 OF 2024

Gajanan Deorao Dhanokar Vs. Shri. Mahalakshmi Mandir, through its Trustees

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

Court's or Judge's Order

Mr. C. A. Joshi, Advocate for appellant.

Mr. S. A. Mohta, Advocate for respondent Nos.2 to 10 and 12.

CORAM : ROHIT W. JOSHI, J.

DATE : 13.02.2026.

. The present Second Appeal arises out of judgment and decree dated 15.12.2021 passed by the learned Civil Judge, Senior Division, Akola in Special Civil Suit No.105 of 2014 and judgment and decree and dated 21.12.2023 passed by the learned Ad-hoc District Judge-1, Akola in Regular Civil Appeal No.30 of 2022.

2. The respondents are the original plaintiffs and appellant is the original defendant. Parties will hereinafter be referred as “plaintiffs” and “defendant”.

3. Plaintiff No.1 is a registered public trust and other plaintiffs are its trustees. The plaintiffs filed a suit seeking injunction against the defendant restraining him from making any development over the suit property, which comprises of Mahalaxmi temple premises.

4. The case of the plaintiffs was that the defendant, without authority, removed the idol of the goddess from the temple and intended to make construction there.

5. The learned Trial Court has recorded a categorical finding of fact, based on documentary evidence such as registration certificate of trust, tax assessment by Municipal Council, record of rights, electricity bills, etc., to hold that the suit property belonged to the plaintiff No.1/Trust and that the defendant had not right over the suit property. Accordingly, the learned Trial Court decreed the suit for injunction restraining defendant from initiating any development activity over the suit property and also directed the defendant, by way of mandatory injunction to restore the idol of goddess in its original position.

6. Aggrieved by the said decree, the defendant preferred an appeal being Regular Civil Appeal No.30 of 2022, which is also dismissed by the learned First Appellate Court placing reliance on the aforesaid documents.

7. The defendant admittedly has not produced any documentary evidence to show any semblance of right over the suit property.

8. Mr. C. A. Joshi, learned Advocate for the appellant/defendant, contends that the very fact that the defendant was making construction over the suit property is sufficient to conclude that he was in possession of the suit property and, therefore, a suit simplicitor for injunction was not maintainable. He contends that the plaintiffs ought to have filed a suit for

possession. The said contention cannot be accepted. The defendant was not in possession of the suit property. The temple in question is a 200 years old temple and the trust is in existence since the year 2005. The documentary evidence on record shows possession of the trust over the suit property. Mere intrusion by a person in the property of other would not mean that such intruder is in settled possession of the property so as to disentitle the owner or person asserting a lawful claim over the property from maintaining a suit for injunction against such intruder.

9. In view of the above, no substantial question of law arises of consideration. Second Appeal is, therefore, **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

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