



IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

REG. CIVIL APPEAL NO. 46/2022
(CNR NO. MHGO010007882022)

CHETAN BAJAJ+1 -VS- MUKUNDRAO SONTAKE+12

ORDER BELOW EXH. 20

(Passed on this 24th day of April, 2025)

Seen application.

2. Respondent No.1 is original plaintiff No.1. Appellants are original defendants.

3. By this application respondent No.1 has prayed that the names of other respondents namely responds No. 2 to 13/original plaintiffs No. 2 to 13 be deleted. The application has proceeded on the basis that plaintiff Nos. 2 to 13 are not having any legal right qua the suit property in respect of which learned trial court was pleased to pass decree for perpetual injunction restraining the appellants from disturbing possession of the plaintiffs over the said suit property.

4. On perusal of record and proceeding of RCS No. 13/2009 it appears that defendants/appellants herein have disputed plaintiff's title over the subject suit property. In fact, according to the appellants/original defendants no sale deed was ever executed by the family of defendants in favour of plaintiff No.1 and or other plaintiffs. It is also contended that plaintiff has relying upon draft copy which cannot be termed as sale deed.

5. Be that as it may, on perusal of record and proceeding of said RCS No. 13/2009 it can be seen that defendants have also raised plea of adverse possession before learned trial court. Interestingly said plea has not been decided by learned trial court on the assumption that the defendants are not admitting ownership of the plaintiff qua the said suit property. Further, crucial aspect involved in the matter relating to who between plaintiffs and defendants are in possession of the disputed suit property has also been burst aside by learned trial court.

6. Thus, in the appeal at hand defendants have coming forward with submission that in view of law laid down in judgment of *Anathulla Sudhakar -Vs- B. Buchi Reddy (Dead) by LRs and others, (2008) 4 SCC 594*. This is a case, where though cloud is raised over plaintiffs' title and also it is

claimed, that plaintiff is not in possession of the suit property, the impugned decree is passed without answering crucial issue as to whether plaintiff is entitled for injunction without asking for declaration of title and possession.

7. Under such circumstances, as regard application at hand is concerned, today plaintiff No.1 who has moved this application has not pressed in to service hearing of this application. As such the following order.

ORDER

Application Exh. 20 is disposed of.

Gondia.
Dated: 24.04.2025.

(A. S. Pratinidhi)
District Judge-1 & ASJ,
Gondia.

Dictated and transcribed on dais computer	:	24/04/2025
Checked by the Judge	:	24/04/2025
Finally printed and signed by the Judge	:	24/04/2025