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	Decided On	08/05/2026
	Duration	Y. M. D.
		08 09 10

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION,
GHANSAWANGI
(Presided over by Chetan Jagtap)

Regular Civil Suit No.84/2017

Exh. No.62

1. Gulabrao Raosaheb Anande,
Age :- 40 years, Occu. :- Agri.
2. Abasaheb Raosaheb Anande,
Age :- 35 years, Occu. :- Agri.,
1 & 2 r/o. Masegaon, Tq. Ghansawangi,
Dist. Jalna.
3. Sarswati Parmeshwar Naik,
Age :- 30 years, Occu. :- Household,
R/o. Paduli Khurda, Tq. Ghansawangi,
Dist. Jalna.
4. Sojarbai Raosaheb Anande,
Age :- 58 years, Occu. :- Household,
R/o. Masegaon, Tq. Ghansawangi,
Dist. Jalna.

... PLAINTIFFS

- VERSUS -

1. Baburao Sopanrao Anande,
Age :- 50 Yrs, Occu- Agri.,
2. Ganesh Bhagwan Anande,
Age :- 45 Yrs, Occu- Agri.,
Both R/o. Masegaon, Tq. Ghansawangi,
Dist. Jalna.

... DEFENDANTS

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Suit Claim :- Suit for recovery of possession
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Appearance :-

For Plaintiffs :- Learned Advocate Shri. R. S. Deshmukh
For Defendants :- Learned Advocate Shri. K. G. Bhosale
.....

J U D G M E N T

(Delivered On :- 08/05/2026)

The present suit is filed praying the relief of Recovery of possession.

Description of the suit property :-

2. At village Masegaon, Tq. Ghansawangi, Dist. Jalna, farm land Gat No.31 having total area 01 H 60 R, is the subject matter of the dispute. (Hereinafter called as 'suit property'.)

The Plaintiffs contention into the plaint is as under:-

3. Suit property was owned by plaintiff No.1 to 3's father and plaintiff No.4's husband namely Raosaheb Genuba Anande. Raosaheb was the owner and possessor of the suit property. He demised in the year 2007. Plaintiffs are his legal heirs. After demise of Raosaheb, plaintiffs become owners and possessors of the suit property. Defendants are not related with the suit property. Still, defendants have made false and bogus entry of their names on the property extract of the suit property. In the month of April 2014, while plaintiffs were not present in the village, by taking its benefit, defendants forcefully and illegally took the possession of suit property. When, in the month of January 2016, plaintiffs returned back to the village, they got known about the same.

4. On date 10.09.2017, plaintiffs made demand to return the possession of suit property towards the defendants. But, they denied the same. Plaintiffs are the owners of the suit property. Therefore, they are entitled to get the possession of the same. Hence, this present suit for recovery of possession of suit property is filed against the defendants.

5. Defendants have filed their written statement at Exh.20. Their defence is as under :-

Admitted that plaintiffs ancestor Raosaheb was the owner of suit property. Raosaheb had left the village in the year 1982 by delivering the possession of suit property to the defendants in that year itself. Since year 1982 till today, defendant No.1 is cultivating the suit property as the owner for a period more than twelve years, having knowledge to the plaintiff. Therefore, defendant No.1 has perfect his title over the suit property by way of adverse possession.

6. In the year 1982, Raosaheb effected partition and delivered 80 R portions land from Gat No.31 to the defendant No.1. In that respect mutation No.18 was passed. In the year 1982 itself, Raosaheb by allotting remaining 80 R portions land of Gat no.31 into the possession of defendant No.2, left the village. As, defendant No.2 was cultivating the said portions land for more than 12 years and therefore, his name got mutated on the property extract. On date 27.04.2009, defendant No.2 effected partition and thereby allotted his 80 R portions land of Gat No.31 to the defendant No.1. In that respect mutation extract No.858 was

passed. Thus, since the year 1982, defendant No.1 is into the possession of whole suit property. He has perfected his title over the suit property by way of adverse possession. The suit is not filed within the limitation. Hence, on these grounds prayed to dismiss the suit.

Issues and Findings :-

7. The re-casted issues are at Exh.20. I have recorded my findings and reasons thereon.

<u>No.</u>	<u>Issues</u>	<u>Findings</u>
1]	Whether the plaintiffs proves that they are the owners of suit property ?	Affirmative.
2]	Whether the plaintiffs proves that defendants have made false and bogus entry of their names on the property extract of the suit property ?	Affirmative.
3]	Whether the plaintiffs proves that in the month of April 2014, defendants forcefully and illegally took the possession of the suit property ?	Affirmative.
4]	Whether the defendants proves that they have become owner of the suit property by way of adverse possession ?	Negative.
5]	Whether the defendants proves that suit is barred by Law of Limitation ?	Negative.
6]	Whether the plaintiffs are entitled to get the relief of recovery of possession of the suit property from the defendants, as prayed ?	Affirmative.
7]	What order and decree ?	Suit is decreed.

:- REASONS :-

8. In support of pleading, Plaintiff No.1 testified himself as PW-1 at Exh.15. Plaintiffs in support of their pleading have filed the following documents and citations :-

Documents :-

7/12 extract of suit property Gat No.31 at Exh.61.

Citations :-

- 1] Bishwanath Prasad Singh Vs. Rajendra Prasad & Anr., 2006 (2) Apex Court Judgments 233, Supreme Court of India,
- 2] Sanjay Punamchand Pipada & Anr. Vs. Rahata Vividh Karyakari Society Ltd. & Ors., 2014 (5) ALL MR 512, Bombay High Court Bench at Aurangabad.

9. The plaintiffs have filed evidence close pursis below Exh.30 and 56 and closed their evidence.

10. On the other hand, defendant No.1 testified himself at as DW-1 at Exh.31, Ganesh Bhagwan Anande as DW-2 at Exh.39 and Talathi Shri Ramesh Dataram Konerwal as DW-3 at Exh.48. Defendants in support of their defence filed the following documents and citations :-

Documents :-

- 1] Mutation entry No.18 at Exh.34,
- 2] Mutation entry No.858 at Exh.35,
- 3] Death certificate of Gangubai Anande at Exh.36.

Citations :-

- 1] T. Anjanappa & Ors. Vs. Somalingappa & Anr., 2006 (3) Apex Court Judgments 553 (SC),

- 2] Saroop Singh Vs. Banto & Ors., 2006 (1) Apex Court Judgments 91 (SC),
- 3] L. N. Aswathama & Anr. Vs. P. Prakash, 2011 (1) Apex Court Judgments 086 (SC).

11. The defendants have filed evidence close pursis below Exh.57 and closed their evidence.

12. Heard both sides at length.

AS TO ISSUE NOS.1, 2 and 4 :-

13. Learned advocate for the plaintiffs argued that the plaintiffs are the owners of the suit property. Defendants made false and bogus entry of their names on the property extract of the suit property. On the other hand, learned advocate for the defendants submitted that they have become owner of the suit property by way of adverse possession.

14. Both, plaintiffs and defendants are claiming their respective ownership over the suit property. Having such a position, the pleading and evidence adduced by both the parties needs to be looked into. First submission of the plaintiff is that their ancestor namely Raosaheb was the owner and possessor of the suit property. Defendants in their written statement has admitted that Raosaheb was the owner of the suit property. They also admitted that plaintiffs are his legal heirs. Defendant No.1 during his cross-examination taken on behalf of plaintiffs has also admitted that the suit property was the self owned property of Raosaheb.

15. Defendants have taken the defence that in the year 1982, Raosaheb by delivering the possession of suit property to the defendants, left the village. Since the year 1982 till today, defendant No.1 is cultivating the suit property as a owner for the period more than 12 years, having knowledge to the plaintiffs. Defendant no.1 has perfect his title over the suit property by way of adverse possession. Further, defendants state that in the year 1982 Raosaheb effected partition and delivered 80 R portions land from Gat No.31 to the defendant no.1. In that respect, mutation extract No.18 was passed, which is produced at Exh.34. In the year 1982 itself, Raosaheb allotted remaining 80 R portions land to the defendant No.2. As, defendant No.2 was cultivating the said portions land for more than 12 years and therefore, his name got mutated on the property extract of the suit property. Subsequently, on date 27.04.2009, in partition, defendant No.2 allotted his 80 R portions land to the defendant No.1. Mutation extract No.858 was passed, which is at Exh.35.

16. Defendant No.1 during his cross-examination taken on behalf of plaintiffs has admitted that contents of his affidavit evidence that – “by handing over the possession of suit property to the defendants, in the year 1982, Raosaheb with his family left the village”, is false. This witness has retracted from the defence taken in his written statement. Furthermore, this witness has admitted that Raosaheb has not executed any registered deed in their favour. He further states that they have purchased suit property by paying the consideration of Rs.20,000/- (Rupees Twenty

Thousand) to Rs.22,000/- (Rupees Twenty Two Thousand). He further states that in that respect the mutation entry was taken. Defendant No.2 during his cross-examination has stated that they have purchased the suit property. Defendant No.1's name got mutated on the property extract on the basis of registered purchase deed, which was executed in the year 1982.

17. Both the defendants during their evidence before the Court have specifically stated that they have purchased the suit property by paying the consideration. But, in their written statement, they have nowhere taken the defence that they became owner of the suit property by purchasing it. If at all, they have purchased the suit property, in that respect registered purchase deed should have been executed. But, no any purchase deed produced on the Court record by the defendants. Defendants have taken the defence that they have become the owner of the suit property by way of adverse possession. Whereas, during their oral evidence they stated that they have purchased the suit property. In the case of **L. N. Aswathama & Anr. Vs. P. Prakash, 2011 (1) Apex Court Judgments 086 (SC)**, relied by the defendants, the Hon'ble Supreme Court of India in paragraph 17 has held that :- "The legal position is no doubt well settled. To establish a claim of title by prescription, that is adverse possession for 12 years or more, the possession of the claimant must be physical/actual, exclusive, open, uninterrupted, notorious and hostile to the true owner for a period exceeding twelve years. It is also well settled that long and continuous possession by itself would not constitute adverse

possession if it was either permissive possession or possession without *animus possidendi*. The pleas based on title and adverse possession are mutually inconsistent and the latter does not begin to operate until the former is renounced. Unless the person possessing the property has the requisite animus to possess the property hostile to the title of the true owners, the period for prescription will not commence.”

18. By taking into consideration the observations made by the Hon'ble Apex Court in the above judgment, reverting back to the present matter, in the written statement, defendants have taken the defence of adverse possession. Whereas, in their oral evidence before the Court they stated that they became owner of the suit property by purchasing the same. That means, defendants have taken to mutually inconsistent pleas. Same is not allowed.

19. The judgment relied by the defendants from the case of **T. Anjanappa & Ors. Vs. Somalingappa & Anr., 2006 (3) Apex Court Judgments 553 (SC)**, states about the adverse possession. More also, the another judgment relied by the defendants from the case of **Saroop Singh Vs. Banto & Ors., 2006 (1) Apex Court Judgments 91 (SC)**, paragraph 30 states as :- “Yet again in *Karnataka Board of Wakf v. Government of India and Others*, [(2004) 10 SCC 779], it was observed :-

“...Physical fact of exclusive possession and the animus possidendi to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases of this nature. Plea of adverse possession is not a pure question of law but

a blended one of fact and law. Therefore, a person who claims adverse possession should show : (a) on what date he came into possession, (b) what was the nature of his possession, (c) whether the factum of possession was known to the other party, (d) how long his possession has continued, (e) his possession was open and undisturbed. A person pleading adverse possession has no equities in his favour. Since he is trying to defeat the rights of the true owner, it is for him to clearly plead and establish all facts necessary to establish his adverse possession.”

20. In the above judgment, Hon'ble Apex Court has laid down some conditions in order to satisfy the claim of adverse possession. The first one is, on what date he came into possession, has to be specifically stated. In the present matter in hand, defendants have not stated the specific date on which they came into the possession of suit property. The nature of possession stated is not hostile. Therefore, it appears that the pleading of defendants failed to satisfy all the requisite conditions as stated in above judgment of Hon'ble Apex Court.

21. One of the important aspect of adverse possession is that it should be notorious and hostile to the true owner. Here in the present matter in hand, defendants have stated that Raosaheb left the possession of suit property with them in the year 1982. Defendants have nowhere pleaded that their possession over the suit property was notorious and hostile to the true owner i.e. to the Raosaheb. Thus, the pleading of the defendants does not satisfies the ingredients of the adverse possession claim.

22. Defendants in support of their defence has relied on mutation extract No.18 produced at Exh.34 and mutation extract No.858 produced at Exh.35. Perused mutation extract No.18 which is at Exh.34. The same mentions that the Raosaheb executed partition deed in favour of defendant No.1. It further states that on the basis of Raosaheb's statement and on the application given by the defendant No.1, mutation was taken. The partition deed stated in the said mutation extract is not produced on the Court record. Its specific details are not given by the defendants. Talathi Shri Konerwal (DW-3) during his evidence before the Court has specifically admitted that if on the basis of partition, mutation is to be passed, then date of partition and stamp number, is required to be mentioned into the mutation extract. He further admits that one copy of partition deed is kept into the office. Admittedly, the mutation extract No.18 does not mention the date of partition and stamp number. This witness has specifically stated that mutation extract No.18 is illegal. Furthermore, in respect of mutation extract No.858, the same also does not mention the date of partition and stamp number. This witness has also specifically admitted that mutation extract No.858 is illegal. Thus, as the partition deeds on the basis of which the mutation extract No.18 and 858 passed, are not produced and therefore, bare mutation extracts cannot be taken into consideration in support of the defence raised.

23. Considering all above discussion, it comes out that defendants have taken the contrary defence. Defendants failed to prove the requisite ingredients of adverse possession. The specific

details in respect of adverse possession is not stated by the defendants. Mere entries of their names on the property extract of the suit property does not prove their title and possession over the suit property. Talathi Shri Konerwal (DW-3) has specifically stated that mutation extract no.18 and 858 are illegal. Moreover, the documents on the basis of those extracts have been passed are not produced on the Court record by the defendants. Having such a position, those extracts are not binding on the plaintiffs. Mutation of defendants name on the property extract appears to be false and bogus. Defendants failed to prove that they have become owners of the suit property by way of adverse possession. Plaintiffs have proved that their father Raosaheb was the owner of the suit property. Being his legal heirs, plaintiffs are the owners of the suit property. Thus, plaintiffs have able to prove that they are the owners of the suit property, defendants have made false and bogus entry of their names on the property extract of the suit property. Defendants failed to prove that they have become owner of the suit property by way of adverse possession. Hence, I decide issue no.1 and 2 into the Affirmative and issue No.4 into the Negative.

AS TO ISSUE NO. 3 :-

24. Plaintiffs have stated that in the month of April 2014, defendants forcefully and illegally took the possession of suit property. Whereas, defendants stated that since the year 1982, they are in possession over the suit property. Plaintiff No.1 in his evidence affidavit has specifically stated about defendants forcefully and illegally taking possession of the suit property in the

month of April 2014. The submission remained intact during his cross-examination taken on behalf of defendants. Furthermore, Ganesh (DW-2) during his cross-examination has admitted that till the year 2009, he was not having possession of suit property. That means the plaintiffs had the possession over the suit property. This admission of Ganesh (DW-2) washout the defence taken by the defendants that since the year 1982, they are in the possession over the suit property. Thus, the evidence adduced by the plaintiffs satisfactorily proves that in the month of April 2014, defendants forcefully and illegally took the possession of the suit property. Hence, I decide issue No.3 into Affirmative.

AS TO ISSUE NO.5 :-

25. Defendants have taken defence that they are in possession of the suit property since the year 1982. Present suit is filed in the year 2017. As, present suit is not filed within 12 years from defendants adverse possession over the suit property and therefore, present suit is barred by law of limitation. Article 65 of the Limitation Act states the limitation of 12 years for the suit of possession of immovable property based on title, when the possession of the defendant becomes adverse to the plaintiff. Here, in the present matter in hand, defendants have failed to prove their adverse possession over the suit property since the year 1982. Plaintiffs have specifically pleaded and stated through evidence affidavit that in the January 2016, they got known about the defendants adverse possession over the suit property. They further stated that on date 10.09.2017, they made request to defendants

to hand over the possession of the suit property which was denied by them. Subsequently, on date 26.10.2017, present suit for recovery of possession is filed. The suit is well within the limitation. Hence, I decide issue No.5 into Negative.

AS TO ISSUE NO. 6 and 7 :-

26. After considering the above discussion, it appears that the plaintiffs have able to prove that they are the owners of the suit property. Therefore, they are entitled to the relief of recovery of possession as prayed from the defendants. Thus, I decide issue No.6 into the Affirmative and in answer to issue no.7, I pass the following order :

ORDER

1. The suit is decreed.
2. Defendants are hereby directed to handover possession of suit property to the plaintiffs within 01 month from the date of this judgment.
3. Decree shall be drawn accordingly.
4. Dictated and pronounced in the open Court.

Place :- Ghansawangi.
Date :- 08/05/2026.

(Chetan Jagtap)
Civil Judge Junior Division,
Ghansawangi.