



Swapnil

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 784 OF 2015**

Vishnu Khanderao Davange. ...Appellant

Vs.

Ramchandra Jaggnath Davange. ...Respondent

**WITH  
CIVIL APPLICATION NO. 1667 OF 2015**

Mr. Nikhil Pujari i/b. Mr. Pramod N. Joshi for the appellant.

Mr. Ashish G. i/b. Jay and Co for respondent nos. 1a to 1f.

**CORAM : GAURI GODSE, J.**

**DATE : 15<sup>th</sup> APRIL 2026**

**ORDER :**

1. The second appeal is admitted on following substantial questions of law :-

1. Whether in view of mutation entry no. 245 at Exhibit '32' and the 7/12 extracts at Exhibit '42' to '52' and '58', the plaintiff established his settled possession on the suit property on the ground that during the partition between the Devram Ramji Davange, Sadu Bala Davange and Khanderao Ravji Davange, the suit property was allotted to the share of Khanderao, i.e. the plaintiff's father ?

2. In view of the settled possession, as seen from the revenue record, whether the plaintiff is entitled for a decree of possession on the ground that, the defendant illegally dispossessed the plaintiff from the suit property ?

3. Whether the findings recorded by the first appellate court on the theory of partition pleaded by the plaintiff by referring to the entries in the Schedule of the Hindu Succession Act, 1956 regarding Class-I and Class-II heirs would be sustainable, in as much as the plaintiff claims to be in possession in view of the theory of partition between the Devram, Sadu and Khanderao claiming share in the suit property on the ground that, the original holder Amruta expired issueless and thus these three cousins were entitled to their respective shares ?

2. Notice is waived on behalf of respondent nos. 1a to 1f.

3. Call for records and proceedings.

4. Printing is dispensed with.

5. Learned advocate for the appellants shall file a private paper-book within a period of one year from today.

**CIVIL APPLICATION NO. 1667 OF 2015**  
**IN**  
**SECOND APPEAL NO. 784 OF 2015**

1. This civil application is for interim injunction restraining the respondents from creating third party rights in respect of the suit property. The applicants have also prayed for a direction that the respondents should not delete the applicant's name from the revenue record. So far as the directions regarding revenue record is concerned, the same cannot be considered in this second appeal and the applicant is always at liberty to file appropriate application before the revenue authorities. So far as the prayer for injunction restraining the respondents from creating third party rights is concerned, it is necessary to protect and preserve the status of the suit property during the pendency of the second appeal. The second appeal is admitted. Hence, the nature and status of the suit property needs to be preserved during the pendency of the second appeal.

2. Learned counsel for the respondents submit that the plaintiff seeks rights in the suit property only based on the revenue record which would not confer any title on the party. The suit for possession is based on the revenue record.

Hence, there is no question of granting any protection as prayed by the plaintiff (appellants).

3. There is no dispute that the name of the plaintiff's father was entered in the revenue record in respect of the suit property and the mutation entry no. 245 recording the name of the plaintiff's father was never challenged. Hence, prima facie the documents produced by the plaintiff, supports the plaintiff's contention of settled possession. If any third party rights are created during the pendency of the second appeal, the same would result into multiplicity of the proceedings and would also amount to change in the nature of the suit property. Hence, during the pendency of the second appeal, the respondents shall not create any third party rights in respect of the suit property.

4. The civil application is disposed of in the aforesaid terms.

**[GAURI GODSE, J.]**