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C.A.No. 5857 OF 1997  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5857 OF 1997

CHIRANJI BAI & ORS.

APPELLANTS

VERSUS

SARASWATI BAI & ORS.

RESPONDENTS

O R D E R

This appeal is by the defendants. The plaintiff filed a suit for possession in respect of the suit land claiming that he perfected his title by adverse possession. The Trial Court decreed the suit. The First Appellate Court reversed the decree passed by the Trial Court following a decision of the Single Judge of the High Court of M.P. taking a view that plea of adverse possession as against the Government could not be pressed. In the second appeal filed by the plaintiff, the High Court set aside the decree passed by the First Appellate Court and restored the decree passed by the Trial Court. In the result, the suit was decreed. In doing so the High Court followed a Full Bench decision of the same Court.

..2/-

.2.

The learned counsel for the appellants contended that the Trial Court as well as the High Court were not right and justified in accepting the plea of perfection of title by adverse possession, as pleaded by the plaintiff and the suit has not been filed under Section 6 of the Specific Relief Act. On the other hand, the learned counsel representing the respondents made submissions in support and justification of the impugned judgment.

It is clear from the findings recorded by the First Appellate Court as well as by the High Court that the plaintiff had successfully established that he had perfected his title by adverse possession, having been in possession for a long period of 16 years openly, uninterruptedly and with hostility. This is a finding of fact. We find it difficult to say that the plaintiff failed to establish that he had perfected title by adverse possession. According to the plaintiff, he was dispossessed from the land on 14.3.1975 and he filed the suit on 17.4.1975. In this view, it is not possible for us to accept the plea of the appellants that the suit having not been filed under Section 6 of the Specific Relief Act, it should fail. Such a plea was not taken and no such issue was raised before the Trial Court. At any rate, the suit was filed within six months from the date of dispossession from the suit land.

..3/-

.3.

We find no merit in this appeal. Consequently, it is dismissed, but, with no order as to costs.

.....J.  
(SHIVARAJ V. PATIL)

New Delhi,  
ITEM NO.101(PH)

(D.M. DHARMADHIKARI) August 21, 2003.  
COURT NO. 10

.....J.  
SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 5857/1997

CHIRANJI BAI & ORS... APPELLANTS

VERSUS

SARASWATI BAI & ORS. .. RESPONDENTS  
(With office report)

DATED: 21/08/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)

Mr. S.S. Khanduja, Adv.  
Mr. Yash Pal Dhingra, Adv.  
Mr. B.K. Satija, Adv.

For respondent (s)

Mr. Shiv Sagar Tiwari, Adv.  
Mr. M.P. Singh, Adv.  
Mr. Umesh Babu Chaurasia, Adv.

Upon hearing counsel the Court made the following  
O R D E R

Heard learned counsel for the parties for five minutes.  
The appeal is dismissed with no order as to costs in terms of the signed order.

Sarita(Shelly Sengupta)  
Court Master

(Signed order is placed on the file)