

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(s). 2980 OF 2004

CHHOTUSING PRATAPSINGH THAKUR

Appellant (s)

VERSUS

DEOBAI SATU BHANDARE & ORS.

Respondent(s)

Date: 25/10/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Ms. Anita Sasidharan, Adv.  
M/S. Lawyer'S Knit & Co,Adv.

For Respondent(s)

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

The Appeal is allowed in terms of the signed  
order.

(signed order is placed on the file)  
(Deepak Joshi) (Indu Satija)  
Sr. P.A. Court Master  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 2980 OF 2004

CHHOTUSING PRATAPSINGH THAKUR

.....Appellant (S)

VERSUS

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.....Respondent (S)

WITH

O R D E R

Heard learned counsel for the appellant Ms. Vinita Sashidharan.

None has appeared for the respondent although they have been served. The plaintiff is the appellant before us.

The Plaintiff claimed possession of the property in dispute on the basis of his title. The Trial Court and the First Appellate Court have held that the plaintiff is the owner of the property. As regards the defendant's plea of adverse possession the Trial Court and First Appellate Court held that no doubt the defendants have been in possession for a very long time but the defendants have not established from what date the possession became hostile to the owner. On that ground the Trial Court rejected the defendant's plea of adverse possession, and this finding has been upheld by the First Appellate Court.

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Surprisingly enough, the High Court in Second Appeal has interfered with the concurrent findings of the Trial Court and First Appellate Court. It is well settled that the High Court cannot set aside the findings of fact of the First Appellate Court unless they are based on no evidence or are perverse. There is no perversity in the judgment of the First Appellate Court, nor is it a case of no evidence.

On the facts of the case, we set aside the judgment of the High Court and restore the judgment of the First Appellate Court.

The Appeal is allowed. No costs.

.....J.  
[MARKANDEY KATJU]

.....J.  
[GYAN SUDHA MISRA]

NEW DELHI  
OCTOBER 25, 2010