

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 3936 OF 2013**

ANANTA CHANDRAKANT BHONSULE(D)BY LRS & ANR. Appellants

VERSUS

TRIVIKRAM ATMARAM KORJUEKAR(D) BY LRS. & ANR. Respondents

O R D E R

The Appellant, who claims mundkarial rights in respect of the property in dispute, has come up with the above appeal challenging the judgment and decree passed by the High Court of Bombay at Goa in a Second Appeal, confirming the concurrent judgment and decrees of Trial Court and the Appellate Court, ordering his eviction.

We have heard Ms. Ananya Mukherjee, learned counsel for the Appellant.

The present Appellants are the legal representatives of one Ananta Chandrakant Bhonsule, who claimed to have acquired mundkar rights in respect of the subject property several decades ago.

According to the original Appellant, he had also constructed a house in the land over which he acquired mundkarial rights.

The Respondents-landlords filed a civil suit way back in the year 1970 seeking eviction of the original appellant. By a judgment and decree dated 21.4.1975, the Trial Court decreed the suit and directed delivery of possession.

The original Appellant/Defendant filed a First Appeal before

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the District Court at Panaji. The appeal was dismissed by the first appellate court by a judgment and decree dated 10.3.2008. The same was challenged by the Appellant by way of a second appeal before the High Court of Bombay at Goa. The High Court dismissed the second appeal on the short ground that there was no perversity in the appreciation of evidence by both the courts below and that there was no substantial question of law arising in the second appeal. It is against the said judgment that the Appellant is before us.

The main thrust of the argument of the learned counsel for the Appellant is that under Section 31(2) of the Goa, Daman and Diu Mundakars (Protection from Eviction) Act, 1975 (hereinafter referred to as 'Act'), the jurisdiction of the Civil Court is barred. It is the contention of the learned counsel for the Appellant that the fact that the Appellant was a mundkar, within the definition of expression under Section 2(p) of the Act, is admitted even by the Respondent-the original owners and that, therefore, all the three courts exercised a jurisdiction completely contrary to Section 31(2) of the Act.

Though, at the first blush, the said argument appears to be well-founded, it is seen from admitted facts that the Respondent filed the suit for declaration and eviction way back in the year 1970. The Trial Court decreed the suit on 21.4.1975. It was during the pendency of a revision petition arising out of the execution petition that the Act came into force on 12.3.1976. In other words, the Act under which the civil court's jurisdiction was barred, came into force after the decree was passed by the Trial

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Court in the suit for eviction filed by the Respondent.

It is settled law that ouster of jurisdiction of civil court can be expressed or implied, but it cannot have retrospective effect annulling a decree validly passed by the civil court. Therefore, we do not find any error of law on the part of the High Court in confirming the concurrent judgment and decrees of the Trial Court and the first Appellate Court. Hence, this appeal is dismissed, without any order as to costs.

Pending application(s), if any, stand disposed of.

.....J.
(V. RAMASUBRAMANIAN)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
FEBRUARY 09, 2023

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ITEM NO.104

COURT NO.15

SECTION III

**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). 3936/2013

ANANTA CHANDRAKANT BHONSULE(D)BY LRS & ANR.

Appellant(s)

VERSUS

TRIVIKRAM ATMARAM KORJUEKAR(D) BY LRS. & ANR.

Respondent(s)

Date : 09-02-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

HON'BLE MR. JUSTICE PANKAJ MITHAL

**For Appellant(s) Ms. Ananya Mukherjee, Adv.
Mr. Krishna Murari, Adv.
Ms. Shipra Ghose, AOR**

For Respondent(s)

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

The civil appeal is dismissed, in terms of the signed order.

Pending application(s), if any, stand disposed of.

**(DR. NAVEEN RAWAL)
ASTT. REGISTRAR-cum-PS**

**(RENU BALA GAMBHIR)
COURT MASTER (NSH)**

(Signed order is placed on the file)