



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 25th OF MARCH, 2025

SECOND APPEAL No. 396 of 2012

HABEEB KHAN

Versus

***KASAV KHAN (DELETED) THROUGH LRS MUSTAQ KHAN AND
OTHERS***

Appearance:

Shri U.K. Jain, Shri A.K. Jain and Shri Rajeev Jain- Advocates for appellants.

None for respondents.

J U D G M E N T

This Second Appeal, under Section 100 of CPC, has been filed against the judgment and decree dated 06.08.2012 passed by District Judge, Vidisha (M.P.) in Civil Appeal No.15-A/2010 thereby affirming the judgment and decree dated 10.03.2010 passed by Civil Judge Class – I, Kurwai, District Vidisha (M.P.) in Civil Suit No.3-A/2008.

2. Appellant is the defendant who has lost his case from both the courts below.

3. Facts necessary for disposal of the present appeal, in short, are that the plaintiff/respondent filed a suit for declaration of title, possession as well as for *mesne* profits by pleading *inter alia* that Survey No.231 area 2.748 hectares



situated in village Bakwara, Tahsil Kurwai, District Vidisha belonged to his father Gulab Khan. The plaintiff purchased the aforesaid property by registered sale deed dated 30.11.1962 for a consideration of Rs.1,500/-. Shambhu Khan and Laxman Singh were the attesting witnesses. However, appellant Habib Khan got his name mutated without any information to the plaintiff/respondent. The plaintiff came to know about this fact when his son went to get the credit card prepared on 29.11.2005. Although the son of plaintiff tried to verify that by which order the name was mutated but he could not get the copy. However, when plaintiff went to cultivate the land, then they were stopped by defendants and accordingly, suit was filed for declaration of title, possession and *mesne* profits. It was also mentioned by plaintiff that earlier the plaintiff had filed a suit for declaration of title against defendant No.1 which was registered as Civil Suit No.8-A/2006. Since there was a formal defect in the suit, therefore, the same was withdrawn with liberty to file afresh. Similarly, father of defendant No.1, namely, Chhote Khan had also filed a suit for partition on 20.07.1964 which was registered as Civil Suit No.31-A/64. The said suit was decreed by compromise decree dated 22.10.1964.

4. Defendant/appellant filed his written statement and claimed that the property in dispute was of their grandfather, namely, Moujuddin Khan. It was his case that father of plaintiff and the father of grandfather of defendant were the owner of 402 Bigha of land including the disputed land. After the death of Nazar Khan who was the father of grandfather of defendant, the land was inherited by Gulab Khan and Moujuddin Khan (grandfather of defendant). However, dishonestly, Gulab Khan got the disputed property mutated in his name. At that time, father of defendant, namely, Chhote Khan was minor and was not aware of the number and revenue record of the land and therefore taking advantage of the said fact, Gulab Khan got a sale deed executed in respect of three survey numbers



which were not within the knowledge of Chhote Khan. After aforesaid fact came to the knowledge of Chhote Khan, Gulab Khan by putting pressure on his relatives got a civil suit instituted against him and later on compromised the matter and got a declaration that Chhote Khan is the owner of $\frac{1}{2}$ of 348 Bigha of land. According to the defendant, Gulab Khan had no right to execute the sale deed and accordingly, it was prayed that since sale deed is null and void, therefore, suit be dismissed.

5. The Trial Court, after framing the issues and recorded evidence, decreed the suit. Being aggrieved by judgment and decree passed by the Trial Court, appellant preferred appeal. During pendency of appeal, appellant filed an application under Order VI Rule 17 as well as under Order XLI Rule 27 CPC for taking khasra entries on record. Both the applications were rejected by appellate court and after considering the evidence led by parties dismissed the appeal.

6. Challenging the judgment and decree passed by the Courts below, it is submitted by learned counsel for appellant that the courts below have failed to see that plaintiff had earlier filed a civil suit which was withdrawn by him and therefore, the suit in question is bad in law in the light of principle of *res judicata* and proposed following substantial questions of law:-

“(A) Whether, the courts below was justified in rejecting the application filed under order 41 rule 27 C.P.C. seeking leave to produce additional evidence, when the documents were certified copies of Khasra which were public documents and relevant for decision of the case and sufficient cause was shown there non production in trial court?

(B) Whether, the lower appellate court was justified in rejecting the application filed under order 6 rule 17 C.P.C. raising the plea of limitation, which was purely legal question and could be raised at any stage of the case and appeal being continuation of the suit, the plea was permissible according to law?



(C) Whether, the judgment and decree of the courts below is vitiated when plaintiff utterly failed to prove the subsisting right title of the vender of the sale deed P/1 and In the facts and circumstances of the case, the sale it self was dubious and fictitious and Gulab Khan had no right to execute the sale deed in favour of his son?

(D) Whether, the judgment and decree of the courts below is perverse, in holding the suit within time, when there was no evidence to sustain the finding of possession of plaintiff over the suit land?

(E) Whether, judgment and decree of courts below is perverse in holding the valuation proper and court fee paid adequate, when the provision of section 7 (iv)(c) of the court fee Act were not applicable?

(F) Whether, the award of *mesne* profits at Rs 20,000/- per year is perverse and contrary to the provision of order 20 rule 12 C.P.C. when there was no evidence on record to sustain the finding regarding actual net yield and income from the suit land.”

7. It is further submitted that court below should not have rejected the applications filed under Order VI Rule 17 and under Order XLI Rule 27 CPC. However, it was fairly stated by counsel for appellant that appellant has not proposed any substantial question of law with regard to *res judicata* and his proposed other substantial questions of law including the rejection of application filed under Order VI Rule 17 as well as under Order XLI Rule 27 CPC.

8. Heard learned counsel for appellant.

9. So far as the question of *res judicata* is concerned, neither it was raised in the written statement nor it was raised in the memo of appeal before the appellate court not it has been raised in memo of present appeal. The question of *res judicata* is a mixed question of fact and law. The same should have been pleaded by the appellant/defendant in his written statement, however, that was never done. The plaintiff in his plaint had specifically stated that Civil Suit No.8-A/2006 was filed and because of formal defect, the said suit was withdrawn by



order dated 10.09.2007 with liberty to file a fresh one.

10. In written statement, the defendant, in paragraph 7, had specifically stated that first suit was withdrawn by the plaintiff after taking permission from the Court. Thus, once the suit filed by plaintiff was withdrawn with liberty from the Court, then there is no question of *res judicata*. Accordingly, submission made by counsel for appellant that the suit in question was barred by principle of *res judicata* is held to be misconceived and it is accordingly rejected.

11. So far as the contention of counsel for appellant that Appellate Court should not have rejected the applications filed under Order VI Rule 17 and under Order XLI Rule 27 of CPC is concerned, the same is misconceived and is hereby rejected for following reasons:

In his application filed under Order VI Rule 17 CPC, defendant/appellant had claimed that plaintiff is seeking his title on the basis of sale deed dated 30.11.1962 whereas the civil suit was filed in the year 2007 and why the plaintiff did not get his name mutated in the revenue records for the last 30 years, therefore, the suit is misconceived and secondly, the defendants are in open and hostile possession and therefore the defendants perfected their title by way of adverse possession.

12. So far as the question of non-mutation of the name of plaintiff in the revenue record is concerned, it is suffice to mention here that the mutation entry is not a document of title and accordingly, because the name was not mutated immediately after or within the reasonable time from the date of execution of sale deed, it cannot be held that the sale deed is bad or the purchaser had lost his title on account of delay in mutation. Delay in mutation may be one of the grounds to critically examine the sale deed but that cannot be the solitary ground to hold that the sale deed is bad or is forged.

13. So far as the question of adverse possession is concerned, it is a pure



question of fact for the reason that long possession by itself would not convert any possession into adverse possession. Adverse possession means that it was open and hostile to the knowledge of real owner. In order to establish the defence of adverse possession, the defendant is required to admit the ownership of the plaintiff.

14. The Supreme Court in the case of **Dagadabai (Dead) by Legal Representatives Vs. Abbas alias Gulab Rustum Pinjari** reported in (2017) 13 SCC 705 has held as under:

16. Fourth, the High Court erred fundamentally in observing in para 7 that, “*it was not necessary for him (defendant) to first admit the ownership of the plaintiff before raising such a plea*”. In our considered opinion, these observations of the High Court are against the law of adverse possession. It is a settled principle of law of adverse possession that the person, who claims title over the property on the strength of adverse possession and thereby wants the Court to divest the true owner of his ownership rights over such property, is required to prove his case only against the true owner of the property. It is equally well settled that such person must necessarily first admit the ownership of the true owner over the property to the knowledge of the true owner and secondly, the true owner has to be made a party to the suit to enable the Court to decide the plea of adverse possession between the two rival claimants.

17. It is only thereafter and subject to proving other material conditions with the aid of adequate evidence on the issue of actual, peaceful, and uninterrupted continuous possession of the person over the suit property for more than 12 years to the exclusion of true owner with the element of hostility in asserting the rights of ownership to the knowledge of the true owner, a case of adverse possession can be held to be made out which, in turn, results in depriving the true owner of his ownership rights in the property and vests ownership rights of the property in the person who claims it.

18. In this case, we find that the defendant did not admit the plaintiff's ownership over the suit land and, therefore, the issue of adverse possession, in our opinion, could not have been tried



successfully at the instance of the defendant as against the plaintiff. That apart, the defendant having claimed the ownership over the suit land by inheritance as an adopted son of Rustum and having failed to prove this ground, he was not entitled to claim the title by adverse possession against the plaintiff.

15. The Supreme Court in the case of **M. Radheshyاملal Vs. V Sandhya and Anr. Etc.** decided on **18.03.2024** in **Civil Appeal No.4322 – 4324 of 2024** has held as under:

“12. Therefore, to prove the plea of adverse possession :-

- (a) The plaintiff must plead and prove that he was claiming possession adverse to the true owner;
- (b) The plaintiff must plead and establish that the factum of his long and continuous possession was known to the true owner;
- (c) The plaintiff must also plead and establish when he came into possession; and
- (d) The plaintiff must establish that his possession was open and undisturbed.

It is a settled law that by pleading adverse possession, a party seeks to defeat the rights of the true owner, and therefore, there is no equity in his favour. After all, the plea is based on continuous wrongful possession for a period of more than 12 years. Therefore, the facts constituting the ingredients of adverse possession must be pleaded and proved by the plaintiff.”

16. The Supreme Court in the case of **Uttam Chand (Dead) through Legal Representatives Vs. Nathu Ram (Dead) through Legal Representatives and others** reported in **(2020) 11 SCC 263** has held as under:

11. In *T. Anjanappa [T. Anjanappa v. Somalingappa, (2006) 7 SCC 570]*, this Court has set aside the finding of the High Court that the



defendants claiming adverse possession do not have to prove who is the true owner. If the defendants are not sure who the true owner is, the question of them being in hostile possession as well as of denying the title of the true owner does not arise. The Court held as under: (SCC pp. 574-75, paras 12-14)

“12. The concept of adverse possession contemplates a hostile possession i.e. a possession which is expressly or impliedly in denial of the title of the true owner. Possession to be adverse must be possession by a person who does not acknowledge the other's rights but denies them. The principle of law is firmly established that a person who bases his title on adverse possession must show by clear and unequivocal evidence that his possession was hostile to the real owner and amounted to denial of his title to the property claimed. For deciding whether the alleged acts of a person constituted adverse possession, the animus of the person doing those acts is the most crucial factor. Adverse possession is commenced in wrong and is aimed against right. A person is said to hold the property adversely to the real owner when that person in denial of the owner's right excluded him from the enjoyment of his property.

13. Possession to be adverse must be possession by a person who does not acknowledge the other's rights but denies them:

‘24. It is a matter of fundamental principle of law that where possession can be referred to a lawful title, it will not be considered to be adverse. It is on the basis of this principle that it has been laid down that since the possession of one co-owner can be referred to his status as co-owner, it cannot be considered adverse to other co-owners.’ (See *Vidya Devi v. Prem Prakash* [*Vidya Devi v. Prem Prakash*, (1995) 4 SCC 496] , SCC p. 504, para 24.)

14. Adverse possession is that form of possession or occupancy of land which is inconsistent with the title of the rightful owner and tends to extinguish that person's title. Possession is not held to be adverse if it can be referred to a lawful title. The person setting up adverse possession may have been holding under the rightful owner's title e.g. trustees, guardians, bailiffs or agents. Such persons cannot set up adverse possession:



‘14. ... Adverse possession means a [hostile possession] which is expressly or impliedly in denial of title of the true owner. Under Article 65 [of the Limitation Act] burden is on the defendants to prove affirmatively. A person who bases his title on adverse possession must show by clear and unequivocal evidence i.e. possession was hostile to the real owner and amounted to a denial of his title to the property claimed. In deciding whether the acts, alleged by a person, constitute adverse possession, regard must be had to the animus of the person doing those acts which must be ascertained from the facts and circumstances of each case. The person who bases his title on adverse possession, therefore, must show by clear and unequivocal evidence i.e. possession was hostile to the real owner and amounted to a denial of his title to the property claimed.

15. Where possession can be referred to a lawful title, it will not be considered to be adverse. The reason being that a person whose possession can be referred to a lawful title will not be permitted to show that his possession was hostile to another's title. One who holds possession on behalf of another, does not by mere denial of that other's title make his possession adverse so as to give himself the benefit of the statute of limitation. Therefore, a person who enters into possession having a lawful title, cannot divest another of that title by pretending that he had no title at all. (See *Annasaheb Bapusaheb Patil v. Balwant* [*Annasaheb Bapusaheb Patil v. Balwant*, (1995) 2 SCC 543] , SCC p. 554, paras 14-15.)”

12. In *Kurella Naga Druva Vudaya Bhaskara Rao* [*Kurella Naga Druva Vudaya Bhaskara Rao v. Galla Jani Kamma*, (2008) 15 SCC 150] , the payment of tax receipts and mere possession for some years was found insufficient to claim adverse possession. It was held that if according to the defendant, the plaintiff was not the true owner, his possession hostile to the plaintiff's title will not be sufficient. The Court held as under: (SCC p. 158, para 19)



“19. The defendant claimed that he had perfected his title by adverse possession by being in open, continuous and hostile possession of the suit property from 1957. He also produced some tax receipts showing that he has paid the taxes in regard to the suit land. Some tax receipts also showed that he paid the tax on behalf of someone else. After considering the oral and documentary evidence, both the courts have entered a concurrent finding that the defendant did not establish adverse possession, and that mere possession for some years was not sufficient to claim adverse possession, unless such possession was hostile possession, denying the title of the true owner. The courts have pointed out that if according to the defendant, the plaintiff was not the true owner, his possession hostile to the plaintiff's title will not be sufficient and he had to show that his possession was also hostile to the title and possession of the true owner. After detailed analysis of the oral and documentary evidence, the trial court and the High Court also held [*Kurella Naga Druva Vudaya Bhaskara Rao v. Galla Janikamma*, 2006 SCC OnLine AP 842 : (2009) 3 ALD 416] that the appellant was only managing the properties on behalf of the plaintiff and his occupation was not hostile possession.”

13. In *Brijesh Kumar v. Shardabai* [*Brijesh Kumar v. Shardabai*, (2019) 9 SCC 369 : (2019) 4 SCC (Civ) 509] , the Court held as under: (SCC p. 374, para 13)

“13. Adverse possession is hostile possession by assertion of a hostile title in denial of the title of the true owner as held in *M. Venkatesh* [*M. Venkatesh v. BDA*, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387] . The respondent had failed to establish peaceful, open and continuous possession demonstrating a wrongful ouster of the rightful owner. It thus involved question of facts and law. The onus lay on the respondent to establish when and how he came into possession, the nature of his possession, the factum of possession known and hostile to the other parties, continuous possession over 12 years which was open and undisturbed. The respondent was seeking to deny the rights of the true owner. The onus therefore lay upon the respondent to establish possession as a fact coupled with that it was open, hostile and continuous to the knowledge of the true owner. The respondent-plaintiff failed to



discharge the onus. Reference may also be made to Chatti Konati Rao v. Palle Venkata Subba Rao [Chatti Konati Rao v. Palle Venkata Subba Rao, (2010) 14 SCC 316 : (2012) 1 SCC (Civ) 452] , on adverse possession observing as follows: (SCC p. 322, para 15)

‘15. *Animus possidendi* as is well known is a requisite ingredient of adverse possession. Mere possession does not ripen into possessory title until the possessor holds the property adverse to the title of the true owner for the said purpose. The person who claims adverse possession is required to establish the date on which he came in possession, nature of possession, the factum of possession, knowledge to the true owner, duration of possession and that possession was open and undisturbed. A person pleading adverse possession has no equities in his favour as he is trying to defeat the rights of the true owner and, hence, it is for him to clearly plead and establish all facts necessary to establish adverse possession. The courts always take unkind view towards statutes of limitation overriding property rights. The plea of adverse possession is not a pure question of law but a blended one of fact and law.’
”

14. As to whether the plaintiff can claim title on the basis of adverse possession, this Court in a judgment *Ravinder Kaur Grewal v. Manjit Kaur* [*Ravinder Kaur Grewal v. Manjit Kaur*, (2019) 8 SCC 729 : (2019) 4 SCC (Civ) 453] has held as under: (SCC p. 777, para 60)

“60. The adverse possession requires all the three classic requirements to co-exist at the same time, namely, *nec vi* i.e. adequate in continuity, *nec clam* i.e. adequate in publicity and *nec precario* i.e. adverse to a competitor, in denial of title and his knowledge. Visible, notorious and peaceful so that if the owner does not take care to know notorious facts, knowledge is attributed to him on the basis that but for due diligence he would have known it. Adverse possession cannot be decreed on a title which is not pleaded. *Animus possidendi* under hostile colour of title is required. Trespasser's long possession is not synonymous with adverse possession. Trespasser's possession is construed to be on behalf of the



owner, the casual user does not constitute adverse possession. The owner can take possession from a trespasser at any point in time. Possessor looks after the property, protects it and in case of agricultural property by and large the concept is that actual tiller should own the land who works by dint of his hard labour and makes the land cultivable. The legislature in various States confers rights based on possession.”

15. The matter has been examined by a Constitution Bench in *M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das* [*M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das*, (2020) 1 SCC 1] wherein, it has been held that a plea of adverse possession is founded on the acceptance that ownership of the property vests in another, against whom the claimant asserts possession adverse to the title of the other. The Court held as under: (SCC pp. 703-706, paras 1142-1143 & 1147-1150)

“1142. A plea of adverse possession is founded on the acceptance that ownership of the property vests in another against whom the claimant asserts a possession adverse to the title of the other. Possession is adverse in the sense that it is contrary to the acknowledged title in the other person against whom it is claimed. Evidently, therefore, the plaintiffs in Suit 4 ought to be cognizant of the fact that any claim of adverse possession against the Hindus or the temple would amount to an acceptance of a title in the latter. Dr Dhavan has submitted that this plea is a subsidiary or alternate plea upon which it is not necessary for the plaintiffs to stand in the event that their main plea on title is held to be established on evidence. It becomes then necessary to assess as to whether the claim of adverse possession has been established.

1143. A person who sets up a plea of adverse possession must establish both possession which is peaceful, open and continuous possession which meets the requirement of being *nec vi nec claim* and *nec precario*. To substantiate a plea of adverse possession, the character of the possession must be adequate in continuity and in the public because the possession has to be to the knowledge of the true owner in order for it to be adverse. These requirements have to be duly established first by adequate pleadings and second by leading sufficient evidence. Evidence, it is well settled, can only be adduced



with reference to matters which are pleaded in a civil suit and in the absence of an adequate pleading, evidence by itself cannot supply the deficiency of a pleaded case. Reading Para 11(a), it becomes evident that beyond stating that the Muslims have been in long, exclusive and continuous possession beginning from the time when the Mosque was built and until it was desecrated, no factual basis has been furnished. This is not merely a matter of details or evidence. A plea of adverse possession seeks to defeat the rights of the true owner and the law is not readily accepting of such a case unless a clear and cogent basis has been made out in the pleadings and established in the evidence.

1147. In *Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja* [*Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja*, (1979) 4 SCC 274 : 1979 SCC (Cri) 1038] , R.S. Sarkaria, J. speaking for a three-Judge Bench of this Court noted that the concept of possession is “polymorphous” embodying both a right (the right to enjoy) and a fact (the real intention). The learned Judge held: (SCC p. 278, para 13)

‘13. ... It is impossible to work out a completely logical and precise definition of “possession” uniformly applicable to all situations in the contexts of all statutes. Dias and Hughes in their book on *Jurisprudence* say that if a topic ever suffered from too much theorising it is that of “possession”. Much of this difficulty and confusion is (as pointed out in *Salmond's Jurisprudence*, 12th Edn., 1966) caused by the fact that possession is not purely a legal concept. “Possession”, implies a right and a fact; the right to enjoy annexed to the right of property and the fact of the real intention. *It involves power of control and intent to control.* (See Dias and Hughes, *ibid.*)’

These observations were made in the context of possession in Section 29(b) of the Arms Act, 1959.



1148. In *P. Lakshmi Reddy v. L. Lakshmi Reddy* [*P. Lakshmi Reddy v. L. Lakshmi Reddy*, 1957 SCR 195 : AIR 1957 SC 314] , Jagannadhadas, J. speaking for a three-Judge Bench of this Court dwelt on the “classical requirement” of adverse possession: (AIR pp. 317-18, para 4)

‘4. Now, the ordinary classical requirement of adverse possession is that it should be *nec vi nec clam nec precario*. (See *Secy. of State for India in Council v. Debendra Lal Khan* [*Secy. of State for India in Council v. Debendra Lal Khan*, 1933 SCC OnLine PC 65 : (1933-34) 61 IA 78] IA at p. 82.) The possession required must be adequate in continuity, in publicity and in extent to show that it is possession adverse to the competitor.’

The Court cited the following extract from U.N. Mitra's Tagore Law Lectures on the Law of Limitation and Prescription: (AIR p. 319, para 7)

‘7. ... “An adverse holding is an actual and exclusive appropriation of land commenced and continued under a claim of right, either under an openly avowed claim, or under a constructive claim (arising from the acts and circumstances attending the appropriation), to hold the land against him (*sic*) who was in possession. (Angell, Sections 390 and 398). It is the intention to claim adversely accompanied by such an invasion of the rights of the opposite party as gives him a cause of action which constitutes adverse possession.” ’ [6th Edn., Vol. I, Lecture VI, at p. 159]

This Court held: (AIR p. 319, para 7)

‘7. ... Consonant with this principle the commencement of adverse possession, in favour of a person implies that the person is in actual possession, at the time, with a notorious hostile claim of exclusive title, to repel which, the true owner would then be in a position to maintain an action. It would follow that whatever may be the animus or intention of a person wanting to



acquire title by adverse possession his adverse possession cannot commence until he obtains actual possession with the requisite animus.’

1149. In *Karnataka Board of Wakf v. Union of India* [*Karnataka Board of Wakf v. Union of India*, (2004) 10 SCC 779], S. Rajendra Babu, J. speaking for a two-Judge Bench held that: (SCC p. 785, para 11)

‘11. ... 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, and (e) his possession was open and undisturbed.’

The ingredients must be set up in the pleadings and proved in evidence. There can be no proof sans pleadings and pleadings without evidence will not establish a case in law.

1150. In *Annakili v. A. Vedanayagam* [*Annakili v. A. Vedanayagam*, (2007) 14 SCC 308], this Court emphasised that mere possession of land would not ripen into a possessory title. The possessor must have animus possidendi and hold the land adverse to the title of the true owner. Moreover, he must continue in that capacity for the period prescribed under the Limitation Act.”

(emphasis in original)

17. Since the true ownership of the plaintiff has not been admitted by defendant/appellant, therefore, the Appellate Court did not commit any mistake by rejecting application filed under Order VI Rule 17 CPC.

18. So far as application under Order XLI Rule 27 CPC is concerned, it is fairly



conceded by counsel for appellant that along with the said application, appellant had filed the copies of revenue entries.

19. Considered the aforesaid submissions.

20. In the application filed under Order XLI Rule 27 CPC which was filed by appellant before the Appellate Court, appellant had merely mentioned that he has recently received the aforesaid revenue entries. The aforesaid ground raised by appellant for filing an application under Order XLI Rule 27 CPC is not sufficient to hold that he had any reasonable reason for not filing the aforesaid documents before the Trial Court.

21. Furthermore, the revenue entries are not the documents of title and therefore they do not confer any title to appellant. At the most revenue entries can be said to be relevant for ascertaining the question of possession and since appellant could not prove his adverse possession and the application filed by them under Order VI Rule 17 CPC does not fulfill all the requirements for establishing the title of adverse possession, this Court is of considered opinion that Appellate Court did not commit any mistake by rejecting the application.

22. No other argument was advanced by counsel for appellant.

23. As no substantial question of law arises in the present appeal, accordingly, the appeal fails and is hereby *dismissed*.

(G.S. Ahluwalia)
Judge