

Second Appeal No.57/2001

Shri Shridhar Pendse,  
major of age, residing at  
House No.205/3,  
Bamanvaddo, Siolim, Bardez, Goa. .... Appellant.

V/s.

Shri Anandrao Tukaram Nagvekar,  
major of age, businessman,  
residing at Portawaddo,  
Siolim, Bardez, Goa. .... Respondent.

Mr. J.P. Mulgaonkar, Advcoate for the appellant.

Mr. S.D. Lotlikar, Sr. Advocate with Ms. R.V.  
Thakur, Advocate for the respondent.

CORAM : A.S. AGUIAR, J.

DATE : JANUARY 31, 2002.

ORAL JUDGMENT :

By consent admitted and heard forthwith.

2. The so called substantial questions of law raised in this second appeal are set out in paragraph 10 of the appeal memo.

3. Briefly, the facts of the case are that the appellant herein claimed to be the mundkar in possession of the suit premises. The respondent, however, alleged that the appellant was tenant. The question of mundkarship was heard and decided by the Mamlatdar. The Mamlatdar rejected the appellant's claim of mundkarship

and held that the appellant was a tenant in respect of the suit premises. This finding was upheld by the Addl. Collector and thereafter by the Administrative Tribunal, in revision.

3. The Civil Judge, Jr. Division, Mapusa held the appellant to be tenant. The said finding was upheld by the Addl. District Judge, in appeal. It may be noted that it was not the case of the appellant that he was a tenant in respect of the suit premises and his case of mundkarship being rejected by all the authorities, the resultant finding would be that he is a trespasser.

4. In view thereof, the questions of law raised, are not material and no second appeal can lie on these so called questions of law. The second appeal is, accordingly, dismissed. No order as to costs.

A.S. AGUIAR, J.

ssm.