

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO. 166 OF 2015
WITH
CIVIL APPLICATION NO. 4413 OF 2015**

Pratibha Atmaram Patil .. Appellant

Versus

Nimbabai Vikram Patil .. Respondent

Mr. B.K. Patil, Advocate for the appellant.

Mr. P.P. Dhorde, Advocate for the respondent.

CORAM : A.V. NIRGUDE, J.

DATED : 23.07.2015

P.C. :-

1. Heard. By consent, following order is passed :-

i. The Second Appeal is allowed. Both the judgments of the Lower Courts are set aside. The suit is remanded to the Trial Court for fresh trial.

ii. The respondent/defendant shall file written statement on the first date of hearing which shall be 15.09.2015.

iii. Learned Judge, who would try the suit, would frame the issue only after filing of the written statement and then should proceed with the trial.

iv. The appellant/plaintiff is given liberty to furnish new evidence. He is also allowed to use evidence adduced earlier subject to cross-examination by respondent/defendant.

v. The interim order passed by the Lower Appellate Court preventing creation of third party right at the hands of the respondent/defendant shall continue till further order that would be passed by learned Judge of the Trial Court.

2. The Second Appeal and connected Civil Application accordingly stand disposed of.

[A.V. NIRGUDE, J.]