

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.265 OF 2012
WITH
CIVIL APPLICATION NO.1298 OF 2014**

Shri. Ashok Dhanappa Savale Appellant
(Ori. Deft. no.2)

Vs.

Sou. Latabai Yashwantrao Jadhav Respondents
& Ors. (No.1-ori. Plaintiff &
2 to 4 are ori. Defts.
1,3 and 4 respectively)

Mr. A.M. Kulkarni, Advocate for the Appellant.

Mr. S.G. Deshmukh i/by Mr. Sachin K. Hande, Advocate for the respondents.

Coram : Smt. R.P. SondurBaldota, J.

Date : 22nd January, 2015

P.C.

1 The representative of respondent no.1, who is her husband and also constituted attorney is present in the court. On instructions from the constituted attorney of respondent no.1, Mr. Deshmukh concedes that the suit as filed for injunction simplicitor was not maintainable in view of some of the averments in the plaint. He further states that respondent no.1 would be filing an independent suit for relief of declaration of her right claimed in the suit and appropriate further reliefs within a period of six weeks from today. He requests

that until then the parties should maintain status-quo as regards water facility at site, as seen in the Court Commissioner's report dtd. 27th February, 1998. The report of Commissioner is accompanied by a rough sketch. Mr. Kulkarni, the learned advocate for the appellants, on instructions makes a statement that during pendency of the proceedings, the appellant has purchased the property of original defendant no.1 and that as on today, there is no water-way (bhuipat) existing on the land of the appellant, as seen from the rough sketch accompanying Commissioner's report.

2 In view of concession given, the appeal is allowed. The order impugned in the appeal is set aside. The appellant shall maintain status-quo at the site as mentioned above for a period of six weeks from today.

3 In view of dismissal of the Second Appeal, the Civil Application does not survive, the same is disposed off accordingly.

4 Needless to say that all the contentions on merits, of both the parties are left open.

(Smt. R.P. SondurBaldota, J.)