

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**APPEAL FROM ORDER NO. 396 OF 2014
WITH
CIVIL APPLICATION NO. 450 OF 2014**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr.T.S. Ingle for the appellant/applicant.
Mr. Ameet Palkar for the respondent nos. 1 and 2.

**CORAM : K. K. TATED, J.
DATED : 02/02/2015.**

P.C.:

- . Heard learned Counsel for the parties.
- 2 By this Appeal from Order the appellant plaintiff challenges the judgment and decree dated 22.01.2014 passed by learned District Judge -2 Islampur in Regular Civil Appeal no. 34 of 2008 setting aside the judgment and decree dated 28.01.2008 passed by the 4th Joint Civil Judge, Junior Division, Islampur in Regular Civil Suit no. 343 of 2000 and remanding the matter to the Trial Court by framing additional two issues.
- 3 The learned counsel Mr. Palkar appearing on behalf of respondents makes a statement that they have no objections if as per Order 41 Rule 25 of Code of Civil Procedure, 1908 if those two issues

are referred to the Trial Court for their findings after allowing all the parties to lead evidence according to law.

4 Considering the submissions made by learned counsel for the appellant and no objections given by the learned counsel for the respondent, the following order is passed:

a) The order dated 22.01.2014 passed by learned District Judge -2 Islampur in Regular Civil Appeal no. 34 of 2008 is partly set aside.

b) Two issues framed by the Appellate Court in paragraph 9 of the impugned order is referred to the Trial Court for its decision as per Order 41 Rule 25 of Code of Civil Procedure, 1908 by allowing both the parties to lead additional evidence, if they so desire.

c) Trial Court is directed to decide these two issues as early as possible, in any case, within six months from the receipt of writ from this court.

d) With these directions, Appeal from Order is partly allowed.

e) In view of disposal of Appeal from Order, nothing survives in the Civil Application. Hence, same is also disposed of.

(K.K.TATED, J.)