

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

WRIT PETITION NO.2439 OF 2014

Pramod Yashwant Panse
since deceased

a) Smt. Asha Pramod Panse

Age about 71 years, occ. Household

b) Mr. Vinay Pramod Panse

Age about 42 years, occ. Business

c) Mrs. Payal Ketan Panditrao

Age about 43 years, occ. Household,

All R/t 56/3, Shukrawa Peth

Pune 411 002

.. Petitioner

V/s

Shri Vijay Vinayak Paranjape

Age about 49 years, occ. Well settled

R/at 57A, Shukrawar Peth

Pune-411 002

.. Respondent

Ms. Vaniti Pandi i/b N.V. Vechalekar And Company for the Petitioners.

CORAM : M.S. SONAK, J.

DATED : 21 SEPTEMBER 2015

P.C.:

. Rule.

2 Rule made returnable forthwith.

3 Heard Ms Vaniti Pandit, the learned Counsel appearing for the Petitioners. Ms Pandit, the learned Counsel states that service has been completed upon the Respondent. She further points out that the

order impugned in this petition is common judgment and order dated 2 January 2013 made in Civil Appeal No.238, 239, 240 and 241 of 2009. She further points out that this Court by its order dated 25.09.2014 in Writ Petition No.2814 of 2014 has already set aside the common order dated 2 January 2013, in so far Civil Appeal No.239 of 2009 is concerned.

4 Upon perusal of the records, it does appear that the impugned order dated 2 January 2013 was made in Civil Appeal No.238, 239, 240 and 241 of 2009. It is further clear from the order made by this Court on 25 September 2014 in Writ Petition No.2814 of 2014 that such common order dated 2 January 2013 in so far as Civil Appeal No.239 of 2009 is concerned, is set aside by this Court and the matter has been remanded to the District Court for fresh consideration on merits. Accordingly, relying upon the order dated 25 September 2015 in Writ Petition No.2814 of 2014, this petition will have to be allowed.

5 The order dated 2 January 2013 in so far as Civil Appeal No.238 of 2009 is set aside. Civil Appeal No.238 of 2009 is restored to file of the District Court. The District Court is directed to dispose

of the said appeal in accordance with law and also on its own merits.

All contentions of the parties are expressly kept open.

6 Rule is made absolute to the aforesaid extent.

7 No order as to costs.

8 All concerned to act upon an authenticated copy of this order.

(M.S.SONAK, J.)

C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.