

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

SECOND APPEAL NO. 389 OF 2012
WITH
CIVIL APPLICATION NO. 6891 OF 2012

Madhavrao s/o Kistanna Nemaniwar
Age – 60 years, occup. Business,
R/o Chinden Building, Rajendra Nagar, .. Appellant /
Kinwat, Tq. Kinwat, Dist. Nanded Orig.Plaintiff

versus

- 1) Smt. Bikabai w/o Kistanna Nemaniwar,
Age-80 years, occup. Household and
Business, R/o Shivaji Chowk, Kinwat,
Tq. Kinwant, Dist. Nanded
- 2) Vinod s/o Kistanna Nemaniwar,
Age 45 years, occup. Service, .. Respondents/
R/o Kinwat, Tq. Kinwat, Dist.Nanded Original
Defendants

Mr. L. V. Sangeet, Advocate for appellant
Mr. A. H. Kasliwal, Advocate for respondents

CORAM : SUNIL P. DESHMUKH, J.
DATE : 22nd November, 2016

ORAL JUDGMENT :

1. In the present proceedings, appellant is the plaintiff who had sought restraint on running of business by respondents, in special civil suit no. 95 of 2002.
2. It appears that originally CL-III licence had been granted to the father of appellant and respondent no. 2 and husband of

respondent no. 1. The appellant, it appears, had given no objection to the authorities after death of his father to continue licence in the name of his mother – respondent no. 1 . So also, respondent no. 2 had given no objection for continuation of licence in the name of respondent no. 1. It appears that some dispute had arisen and as such present proceedings had been initiated.

3. The trial court had dismissed the suit by present appellant, the appellate court had maintained the dismissal of suit leading to present second appeal.

4. While the second appeal was pending, respondent no. 1 expired. Thereafter, learned counsel for parties refer to that, some proceedings in respect of heirship certificate between the brothers i.e. the appellant and respondent no. 2 have been initiated and are pending. In the meanwhile, it appears, under the orders of the concerned authorities, the licence stands suspended.

5. In view of aforesaid, second appeal would not carry any fruitful purpose since the business itself due to suspension of licence has come to a grinding halt.

6. In the circumstances, the second appeal stands disposed of in view of above admitted events, leaving it open to the parties to take up appropriate proceedings as and when occasion arises.

7. Needless to refer to that the observations appearing in this order have no efficacy beyond disposal of second appeal and would not influence pending proceedings or the proceedings that may be taken up by the parties.

8. In view of aforesaid, civil application does not survive and stands accordingly disposed of.

SUNIL P. DESHMUKH,
JUDGE

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