

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

11 APPEAL FROM ORDER NO. 46 OF 2016

NIRMALA W/O. VITHAL BORALE
VERSUS
SITARAM S/O. RAMCHANDRA NARKHEDE

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Advocate for Petitioner : Mr. Kulkarni Sanket S.
Mr. Patil Swapnil S. Adv. For R/1 & 2.

CORAM : P.R.BORA, J.

DATE : 17th October, 2016.

PER COURT :

1) Heard. The present appeal is filed against the judgment and order passed by the District Judge-1, Bhusawal on 18.11.2014 in Regular Civil Appeal No.58/2014. Vide the impugned judgment, the first appellate court has remanded the matter to the trial court for fresh trial by giving opportunity to the defendants to file written statement, if any.

2) When the present appeal is taken up for hearing, learned Counsel appearing for the respondents, invited my attention to the facts stated by the respondents in the affidavit in

reply and more particularly, to the fact that after remand, the present appellant had participated in the proceedings before the Trial court and has also filed an application seeking appointment of Court Commissioner.

3) In view of the fact that the appellant has acted upon the order and has also participated in the court proceedings before the Trial Court after the matter has been remanded, nothing remains to be considered in the present appeal. Even otherwise, on perusal of the order passed by the flirt appellate court, it does not appear to me that any mistake has been committed by the District Court in remanding the matter to the Trial Court for its fresh decision. The appeal being devoid of substance, stands dismissed, however without any order as to costs.

(P. R. BORA)
JUDGE

bdv/