

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 572 OF 1993

Madhukar Ratikant Bakare,
Since deceased through his legal heirs & Ors. Appellants

VERSUS

Kamlakar Ratikant Bakare & Anr. Respondents

Mr.Girish Paryani, a/w. Mr.Saurabh Oka for the Appellants.

Mr.Vijay Killedar for Respondent No.1.

Respondent is present in person.

CORAM : R.D. DHANUKA, J.

DATED : 22nd FEBRUARY, 2016

P.C.

By consent of parties, following order is passed :-

(a) By consent of parties, impugned judgment and decree dated 12th February, 1982 passed in R.C.S. No. 987 of 1974 and judgment and decree dated 14th September, 1993 passed by the 3rd Additional District Judge Pune in Civil Appeal No. 894 of 1982 are set aside.

(b) Regular Civil Suit No. 987 of 1974 is restored to file.

(c) The plaintiffs would be at liberty to seek amendment to the plaint. If any application for amendment of the plaint is filed by the plaintiffs, the same shall be considered by the learned trial judge on its own merits. The learned trial judge shall decide the suit afresh without being influenced by the

judgment and decree dated 12th February, 1982 passed by the learned trial judge and the judgment and decree dated 14th September, 1993 passed by the lower appellate court and shall decide the same in accordance with law.

(d) Learned counsel appearing for the parties state that their clients will not create any third party rights in respect of the suit property during the pendency of the suit. Statement is accepted.

(e) All contentions of both the parties are kept open.

(f) If any of the party seeks to lead oral evidence and/or further documentary evidence before the learned trial judge and if any application is made, the same shall be considered on its own merits.

(g) The hearing of the suit is expedited.

(h) The learned trial judge shall make an endeavor to dispose of the suit within six months from the date of the completion of the further pleadings.

2. Second appeal is disposed of in the aforesaid terms. No order as to costs.

3. Parties as well as learned trial judge to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]