

Sequeira

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

SECOND APPEAL NO. 394 OF 2013

Shri Shambhoo Maruti Gundal. ... Appellant
V/s.
Shri Laxman Maruti Gundal & ors. ... Respondents.

Mr.M.B.Kale, for the Appellant.
None for Respondents.

***Coram : N.M. Jamdar, J.
Thursday 5 May, 2016.***

P.C. :-

The Second Appeal which is filed in the year 2011 is pending for admission. Time and again the learned counsel for the Appellant has sought time on the ground that the matter is settled and registered partition deed is also executed. On this ground the orders are passed on 29 August 2013 and 26 September 2013. A detailed order was passed on 14 July 2014 directing that if the parties failed to place the said deed on record they will have to pay costs. Thereafter the Appeal was dismissed because costs were not paid. Again order was passed on 4 August 2014 seeking extension of time to place the partition deed on record. Thereafter Second Appeal was dismissed for non-payment of costs and then restored.

2. The learned counsel for the Appellant states that the partition deed is now placed on record however, seeks further time to ascertain whether the parties have acted as per the partition deed. The Appeal cannot be adjourned any further as it has been just kept being adjourned from 2011. For three years time was taken to place the partition deed on record. Then the partition deed is placed on record. The learned counsel for the Appellant states that he has no instructions. It is clear that the Appellant has settled the dispute through this registered partition deed.

3. In view of this partition deed nothing remains to be adjudicated in this Appeal. In case the partition deed is not acted upon, it is always open to the Appellant to seek leave and contest the Appeal on merits. Second Appeal does not survive and is disposed of.

(N.M. Jamdar, J.)