

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

**SECOND APPEAL NO. 504 OF 2014
WITH
CIVIL APPLICATION NO. 1207 OF 2014**

Shri Deoram Pandu Sahare

...Appellant

vs.

Shri Eknath Mahadu Khurkute

...Respondent

Mr.Girish R. Agrawal for Appellant.

Mr.Nikhil Pujari for Respondent.

CORAM : S.C. GUPTE, J.

21 MARCH 2017

P.C.:

Heard learned Counsel for the parties.

2 After the matter is heard at some length, it is agreed between the parties that the second appeal can be disposed of by deleting the observations of the trial court made in para 16 of the impugned judgment and decree dated 19 April 2008 as well as the directions of the court in clauses 3 and 4 of the operative part of the decree.

3 Accordingly, by consent of parties, para 16 and clauses 3 and 4 of the operative part of the impugned judgment and decree are deleted. Instead, it is ordered, by consent of parties, that the specific performance ordered by this court shall be subject to a permission to be granted by the collector under Section 36(2) of the Maharashtra Land Revenue Code, 1966. The Respondent may apply for such permission and such application will be treated by the authorities as an application for permission under Section 36(2) of the Maharashtra Land Revenue Code. The application

shall be decided, however, by the relevant authorities under Section 36(2) on its own merits. All rights and contentions of the parties in this behalf are expressly kept open.

4 The second appeal is disposed of accordingly. In view of the disposal of the second appeal, the civil application does not survive and the same is also disposed of.

5 In view of the alteration of the impugned judgment ordered by this court, the execution proceedings may not proceed and may instead await a final order of the authorities under Section 36(2) of the Maharashtra Land Revenue Code.

(S.C. GUPTE, J.)