

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

Civil Application (CAS) No.107 of 2017

In

Second Appeal No.141 of 2012

(Vaikunthrao s/o Wamanrao Deshmukh, Deceased, through LRs. Ashok s/o
Vaikunthrao Deshmukh and others v. Ramrao s/o Motiram Thute,
Deceased, through LRs. Smt. Kausalyabai wd/o Ramrao Thute and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri Ved Deshmukh, Advocate, holding for Smt. Padma M.
Chandekar, Advocate for Appellants.

Shri M.V. Mohokar, Advocate for Respondents.

Coram : R.K. Deshpande, J.

Date : 17th February, 2017

Heard the learned counsels appearing for the parties.

This application seeks disposal of the second appeal in terms of compromise arrived at between the parties. The terms of compromise are stated in para 2, containing clauses [A] to [C], which are reproduced below :

“A] The western side portion of north-south division of Nazul Plot No.233, Sheet No.4 of Mouje Adgaon, Tq. Telhara Distt. Akola admeasuring – East-west north side 7.80 mtrs., East-west southern side 7.32 mtrs., North-south

east side 17.92 mtrs., North-south west side 17.64 mtr., total admeasuring 134.42 sq.mtr. is the property jointly owned by L.Rs. of deceased respondent Ramrao Thute and the same is shown as share no.1 in plot no.233 in the map/sketch attached herewith. The above mentioned 134.42 sq.mtr. Portion of plot is bounded as under:-

By East – The eastern side portion of Plot No.233 came on the share of appellants.

By West – Property of Vitthalappa Dahake.

By North – Property of Late Vaikunthrao Deshmukh.

By South – East-West Govt. road.

B] The eastern side portion of north-south division of Nazul Plot No.233, Sheet No.4 of Mouje Adgaon, Tq. Telhara Distt. Akola admeasuring – East-West north side 4.65 mtrs., East-west southern side 4.25 mtrs., North-south east side 18.28 mtrs., North-south west side 17.92 mtr., total admeasuring 80.54 sq.mtr. Is the property jointly owned by L.Rs. of deceased appellant Vaikunthrao Deshmukh and the same is shown as share no.2 in plot no.233 in the map/sketch attached herewith. The above mentioned 80.54 sq.mtr. Portion of plot is bounded as under:-

By East – Property of Late Vaikunthrao Deshmukh.

By West – Property of western side portion of Plot No.233 came on the share of respondents.

By North – Property of Late Vaikunthrao Deshmukh.

By South – East-West Govt. road.

C] The appellants and respondents shall bear their respective cost of present litigation though out.”

Shri Deshpande, the learned counsel for the appellants, submits that the appellant-Ashok s/o Vaikunthrao Deshmukh is personally present before this Court and is representing all the appellants and he identifies the signatures of all the other appellants. Similarly, Shri Mohokar, the learned counsel for the respondents, submits that the respondent-Ganesh s/o Ramrao Thute is personally present before this Court and he identifies the signatures/thumb impression of of the respondents on the application. Both the learned counsels submit that the decree passed by the Courts below be modified in terms of the settlement arrived at between the parties, which is only with respect of the properties which are subject-matter of the suit.

In view of above, the second appeal is disposed of in terms of the settlement, reproduced above. The decree passed by the Trial Court and modified by the lower Appellate Court, is further modified in terms of the settlement, reproduced above. The parties to act upon it.

Judge.