

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

Second Appeal No.311 of 2015

[Pundlik @ Kundlik s/o Konduji Khillare v. Devidas s/o Bhagwan Tambode
(Tambole) and another]

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

Shri C.A. Joshi, Advocate for Appellant.
Shri K.P. Mahalle, Advocate for Respondent No.1.

Coram : R.K. Deshpande, J.
Date : 11th January, 2017

This second appeal arises out of the proceedings under Section 22 of the Bombay Public Trusts Act, 1950. In the decision of the Full Bench of this Court in the case of *Prabhakar Sambhu Chaudhary v. Laxman Baban Mali and others*, reported in 2016(3) *Mh.L.J.* 202, it is held that though the appeal is styled as “Second Appeal”, it is in fact “First Appeal”, and is required to be decided accordingly, and, therefore, existence of substantial question of law is not a condition precedent for admitting the matter.

Shri Mahalle, the learned counsel appearing for the respondent No.1, has raised an objection that the appellant is the objector to the Change Report and he has expired. He submits that his legal heirs cannot be brought on record to prosecute this

appeal. The position of law is not disputed by Shri Joshi for the appellant. The right to sue, therefore, does not survive.

The second appeal is dismissed as abated.

Judge.

Lanjewar