

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 SECOND APPEAL NO. 184 OF 2018
WITH CA/3367/2018 IN SA/184/2018 WITH CA/3366/2018 IN
SA/184/2018

FOREST DEVELOPMENT CORPORATION OF MAHARASHTRA
LTD., NASIK
VERSUS
SHRINIWAS PUSARAM MAHESHWARI AND ANOTHER

.....
Advocate for Appellant : Mr. Shahane Pradeep L.

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CORAM : V. K. JADHAV, J.
DATED : 19th MARCH, 2018

PER COURT:-

1. The learned counsel for the appellant/original defendant no.1 submits that though in para 31 of the judgment, the first appellate court has specifically observed that the present appellant has not breached the terms, more so, it is evident that the respondent/plaintiff has breached the terms and conditions by not paying the entire auction price of Gat No.7, directed the present appellant to refund 1/4th amount i.e. Rs.18,000/- of the auction price for the fodders in the Gat No.7 to the respondent/plaintiff within three months from the date of the order. The learned counsel submits that the first appellate court has also recorded the finding to point nos. 1 and 2 in the negative, however, passed the operative order directing the present appellant to refund the 1/4th amount of the auction price

contrary to the observations made in paras 31 and 32 of the judgment.

2. In view of the above, issue notice to the respondents, returnable on 05.06.2018.

3. The effect of the impugned judgment and order is hereby stayed on condition of deposit of the entire amount by the appellant/defendant no.1 before this Court within a period of two weeks from today. The Civil Application No. 3366 of 2018 is accordingly disposed of.

4. So far as Civil Application No.3367 of 2018 seeking deletion of the name of respondent no.2-State of Maharashtra is concerned, for the reasons stated in the Civil Application, the Civil Application is allowed in terms of prayer clause (B) and disposed of accordingly. Name of respondent no.2-State of Maharashtra be deleted from the array of respondents.

(V. K. JADHAV, J.)

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