

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 55 OF 2017

Sitaram s/o Gujaba Shinde
Deceased through LRs

Appellant

Versus

Swakul Sali Samaj Panch Mandali

Respondent

Mr. M.M. Patil(Beedkar), advocate for appellant.
Mr. A.A. Khande, advocate for respondent.

CORAM : M.S. SONAK, J.
DATE : 1st FEBRUARY, 2018

PER COURT:

1. Learned counsel for the parties submit that this appeal can be disposed of with the following agreed order :-

A) The order of remand is to be sustained;

B) However, in pursuance of remand, the trial court, in addition to the issues re-framed by the appeal court, will consider the following additional issues / recasted issues :

i) Whether plaintiff prove that plaintiff is the owner of the suit property ?

ii) Issue no. 3 as framed by the appeal court, to be substituted with the following issue :-

"Whether defendant proves that his mother Laxmibai was inducted as tenant by Kashinath in the year 1958 and further, whether there was an agreement for purchase of the suit premises

in the year 1960 between Laxmibai and Kashinath and further, whether defendant is in possession of the suit premises in pursuance of such agreement ?

2. The trial Court, upon including the aforesaid issues, decide the suit afresh in accordance with law and on its own merit.
3. Appeal is disposed of in aforesaid terms with the consent of the parties.
4. Pending civil application, if any, does not survive and stands disposed of.

(M.S. SONAK, J.)