

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 86 OF 2016

Shri Anil Dattatraya Kshirsagar
& another

Appellants

Versus

Subhadrabai w/o Bhaguji Kelkar
& others

Respondents

Mr. L.B. Palod, advocate for appellants.
Mr. A.K. Gawali, advocate for respondent 1-B.
Mr. R.R. Karpe, advocate for respondent 1-C.

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

PER COURT:

1. Learned counsel for appellants states that respondents 3 to 22 have already been deleted in terms of order dated 09.06.2007. Respondents 1 and 2 are represented by the counsel appearing for them.

2. After this matter was argued for some time, learned counsel for the parties submit that this appeal can be disposed of with the following agreed order :-

a) The impugned order dated 13.09.2016 is hereby set aside;

b) Regular Civil Appeal No. 279/2012 is remitted to the appeal court for re-hearing and disposal of the same in accordance with law.

c) Appellants in Regular Civil Appeal No. 279/2012 are granted liberty to expressly challenge order made by the trial court on Exh. 37.

3. Accordingly, leave is granted to appellants to amend the memorandum of appeal by adding specific grounds and further, enclosing certified copy of order made by the trial court at Exh. 37. Amendment be carried out within a period of four weeks from today.

4. The parties to appear before the appeal court on 20th February, 2018, at 10.30 am and produce authenticated copy of this order.

5. Appeal court is requested to dispose of Regular Civil Appeal No. 279/2012 in accordance with law and on its own merits, as expeditiously as possible and, in any case, within six months from the date of production of authenticated copy of this order.

6. All contentions of the parties are left upon for determination by the appeal court and nothing in the order may influence the appeal court in deciding the appeal afresh, one way or the other.

7. All concerned to act on authenticated copy of this order.

(M.S. SONAK, J.)