

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.26097 OF 2018
ALONG WITH
CIVIL APPLICATION NO.1359 OF 2018

Bhanudas Ramchandra Dhobale	 Appellant-Applicant
V/s.	
Srirang Bapu Dhobale (Since Deceased),	
Through LRs.:-	
Chababai Srirang Dhobale and Ors.	 Respondents

Mr. Satish S. Raut for the Appellant-Applicant.

Mr. Surel S. Shah for Respondent Nos.1(A) to 1(D).

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 23RD OCTOBER, 2018.

P.C. :

1. Heard learned counsel for the respective parties.

2. This Appeal is directed against the 'Judgment and Decree' dated 21st August 2018 passed by the District Judge-1, Malshiras, thereby allowing the Regular Civil Appeal No.37 of 2008, which was preferred against the 'Judgment and Decree' dated 23rd December 2005 passed in Regular Civil Suit No.236 of 2002 by the 2nd Joint Civil Judge, Junior Division, Malshiras, and remanding the Suit back to the Trial Court.

3. The reason for the remand was that Defendant No.1 was not duly served with the summons and as it was a Suit for partition, his presence being necessary, the first Appellate Court has directed the Trial Court to give opportunity to Defendant No.1 to file his written statement and to give opportunity of leading evidence and hearing to both the parties and thereafter to decide the Suit. The Appellate Court has also laid down the time-line for decision of the Suit.

4. In view thereof, this Court does not find any reason to interfere in the impugned 'Judgment and Order' passed by the first Appellate Court. Hence, the Appeal holds no merits and stands dismissed.

5. Considering that the Suit is of the year 2002, the Trial Court to decide the said Suit as expeditiously as possible.

6. In view of the dismissal of the Appeal, Civil Application No.1359 of 2018 pending therein does not survive and the same stands disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]