

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

***SECOND APPEAL NO. 34 OF 2018
Along with
CIVIL APPLICATION NO. 1325 OF 2017
with
CIVIL APPLICATION (Stamp) NO. 692 OF 2018***

Mr.Prakash Baburao Arwade

-Since deceased through legal heirs

1 a. Sandip Prakash Arwade and others .. Appellants

Vs

Raghunath Babaji Keripale

-Since deceased through legal heirs

1 a. Gajanan Raghunath Keripale

Since deceased through legal heirs

1 a/1. Sunanda Gajanan Keripale and others .. Respondents

Mr.Kuldeep U.Nikam, for Appellants.

Mr.Ramesh Jaiswal a/w Ms.Asmita Jaiswal, for Respondents.

***Coram : N.M.Jamdar, J.
Date : 29 January 2018.***

P.C. :

On 13 December 2017, following order was passed -

1. Heard.

2. Though respondent is duly served, no one appeared on behalf of them when the matter was called

out.

3. *The learned counsel for the appellant submits that prima facie there is a error in typing of facts in impugned judgment dated 9.6.2017 passed by learned Additional Adhoc District Judge – 2, Sangli in Regular Civil Appeal No. 109 of 2010.*

4. *He submits that on page 10 issue no.7 is answered as “YES” whereas finding in paragraph 34 is contrary to that. Hence, he seeks some time to make appropriate application before the lower appellate court for clarification of these facts. He submits that applicant undertakes to make appropriate application before the appellate court on or before 22.12.2017. Same is accepted.*

5. *If such application is made, appellate court is directed to consider the said application on its own merits without influencing that Second Appeal is pending before this court.*

6. *Registry is directed to place the matter on board on 29.1.2018.*

7. *Till next date, parties are directed to maintain status quo as of today.*

Parties to act on authenticated copy of this order.'

2. The Civil Application Stamp No.692 of 2018 is taken out by Respondents stating that this order be vacated since the order was passed in absence of the Respondents. After having heard the learned counsel for the parties, I am of the opinion that the clarification as specified in the order dated 13 December 2017 is required. The

learned counsel for Appellants states that the application has been made and the decision thereupon is awaited. The learned District Judge, Sangli is requested to give a necessary clarification at the earliest. Registry to send a copy of the order to the concerned learned Judge. Considering the fact that the Respondents are in possession, to avoid any further complications, the ad-interim order is continued. The Civil Application filed by the Respondents is disposed of.

Stand over to 28 February 2018.

(N.M.Jamdar, J.)