

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.5126 OF 2018

Vijay Malharrao Desai

.... Appellant

V/s.

Shivani Dilip Desai

.... Respondent

Mr. Prasad B. Kulkarni for the Appellant.

None for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 10TH SEPTEMBER, 2018.

P.C. :

1. Heard Mr. Kulkarni, learned counsel for the Appellant.
2. This Appeal is directed against the order dated 14th November 2017 passed by the Principal District Judge, Kolhapur, thereby remanding the Regular Civil Suit No.30 of 2009.
3. It is submitted that, it was not at all necessary for the first Appellate Court to direct the Trial Court to re-cast the issues and also give opportunity to the parties to further lead evidence, if desired.
4. However, the discussion in the Judgment of the first Appellate

Court shows that, the first Appellate Court has considered the fact that as regards the plea of adverse possession, no separate issue was framed and even in respect of the other issues, they were not framed properly by the Trial Court and hence, re-cast of the issues was directed. The first Appellate Court has also expedited the hearing of the Suit by directing the Trial Court to dispose of the same within a period of nine months.

5. On perusal of the Judgment of the first Appellate Court, therefore, I do not find that there is any reason to interfere in the same, as the first Appellate Court has passed the reasoned order of remand. Hence, this Appeal, being devoid of merits, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]