

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

SECOND APPEAL NO.462 OF 2015

Smt Bhagirathibai Shankar Kadam & Ors.

... Appellants

V/s.

Shri Ramnath Sakharam Shelke & Ors.

... Respondents

**WITH
SECOND APPEAL NOS.630, 429, 459 AND 525 OF 2015
WITH
CIVIL APPLICATION NOS.1371, 944, 986 AND 1138 OF 2015**

Mr.Milind M. Sathaye for the Appellants in SA 462/2015 and 525/2015 and for the Respondent No.8C in SA 429 /2015.

Mr.Girish R. Agrawal for the appellants in SA 429/2015 and 459/2015 and 630/2015 and for the Respondent Nos.1 and 2 in SA 462/2015 and for the Respondent Nos.4 and 5 in SA 525/2015.

Mr. Sanjaykumar P. Khairnar for the Respondent Nos.6 and 7 in SA 462/2015 and for the Respondent No.10 in SA 429/2015 and for the Respondent Nos.4 and 5 in SA No.459/2015 and for the Respondent No.8 in SA No.630/2015.

Mr. Dushyant S. Pagare for the Respondent Nos.2A to 2D in all the Second Appeals.

**CORAM : A.M.DHAVAL, J.
DATE : 19th OCTOBER, 2018.**

P.C.:

For the reasons orally dictated in open court, following operative order is passed:

- i) Second Appeal Nos.429/2015, 630/2015 are dismissed as not maintainable;
- ii) Second Appeal Nos.459/2015, 525/2015 and 462/2015 are

partly allowed;

iii) The judgment and decree passed in Regular Civil Appeal Nos.395/2001, 396/2001 and 397/2001 delivered by the District Judge-I Nashik on 12/12/2004 are hereby set aside and as per Order 41 Rule 23A CPC all the three Appeals are remanded to the First Appellate Court. Those shall be readmitted on same numbers and shall be heard again and decided afresh on merits.

iv) The learned First Appellate Court shall hear all the parties again and shall frame separate points for determination in each Appeal and record separate finding on each point and shall decide the Appeals on merits according to law;

v) The First Appellate Court is directed to dispose of all the appeals within a period of three months from the receipt of record and appearance of the parties;

vi) The Registrar (Judicial-I) is directed to send the record to the First Appellate Court as early as possible;

vii) The parties are directed to remain present in the First Appellate Court on 13/11/2018;

viii) Civil Application Nos.1138/2015, 944/2015, 1371/2015 & 986/2015 for stay, pending in respective appeals, do not survive and the same shall stand disposed of;

ix) The parties and the learned First Appellate Court shall act upon the copy downloaded from the website;

x) Needless to state that the First Appellate Court shall decide the matters on their own merits without getting influenced by observations in these judgments;

xi) The appellant shall be entitled to get full Court Fee refund as per Section 15 of the Maharashtra Court Fees Act.

Sd/-
(A.M.DHAVAL, J.)

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