

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

924 SECOND APPEAL NO. 181 OF 2018
WITH
CA/3363/2018
IN
SA/181/2018

GULAB LAXMAN SHEP AND OTHERS
VERSUS
SUKSHALA SURYABHAN SHEP AND ANOTHER

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Mr. G.O.Kale a/w Mr. R.T.Nagargoje,
Advocate for Appellants.

Mrs. C.S.Deshmukh, Advocate for R – 1,2.

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CORAM : V.L.ACHLIYA, J.

DATE : 04/09/2019

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ORAL ORDER :

1. Heard learned counsel for appellants and respondents. Perused the Judgment and decree passed by trial Court and confirmed in appeal.

2. On due consideration of submissions advanced in the light of conflicting findings on facts recorded by Courts below and issues on facts and law involved in the matter, I am of the view the appeal raises following substantial questions of law.

[A] Whether the title of respondents/plaintiffs is decided by the lower appellate Court on the basis of evidence admissible in law ?

- [B] In facts of the present case the lower appellate Court has correctly interpreted and applied the provisions of Section 14 (1) of the Hindu Succession Act, 1956 ?
- [C] Whether the First appellate Court has exceeded its jurisdiction under law to interfere with the findings of facts recorded by the Court below ?
- [D] Whether the findings on facts recorded by Court below suffers from perversity to call for interference in exercise of appellate jurisdiction of First appellate Court ?
- [E] Whether the First Appellate Court exceeded its jurisdiction under law to set aside the judgment and decree passed by trial Court ?

3. In view of above, the following order is passed.

ORDER

- [i] **'Admit'.**
- [ii] Issue notice to the respondents. Mrs. C.S.Deshmukh, learned counsel waives service of notice of appeal for the respondent nos.1 and 2.
- [iii] Record and proceedings received.
- [iv] Print dispensed with.

- [v] Pending disposal of appeal, execution of decree passed by the appellate Court is stayed.
 - [vi] The appellants are directed to prepare private paper book and submit the same within 12 weeks as per the procedure prescribed under High Court Appellate Side Rules.
 - [vii] Liberty granted to the appellants and respondents to move the Court to fix the appeal for hearing after same is ready for final hearing.
4. Civil Application No. 3363 of 2018 stands disposed of.

[V.L.ACHLIYA]
JUDGE

KNP.