

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

WRIT PETITION NO.5653 OF 2015

Sou. Rukhmini Murari Jaju
(Deceased)

1A. Shri Murari Shankarlal Jaju
& Ors.

... Petitioners

Vs

Sou. Suchita Baburao Chavan
& Anr.

... Respondents

...

Mr. Pradeep J. Thorat for the Petitioners.

Mr. A.A.Garge for the Respondent No.1.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 7, 2019

P.C. :

Heard learned counsel for the parties.

2 Petitioners (Plaintiffs) in Special Civil Suit No.87 of 2001 had applied for re-casting of the issues vide application below Exhibit 141. The learned trial Judge passed an order on 28th November, 2014 whereby issues were re-caste without supplying any reasons.

3 It is against the order dated 28th November, 2014, this Petition is preferred under Article 227 of the Constitution of India. The learned counsel for the petitioners has brought to my notice the

judgment in Special Civil Suit No.30 of 1970 wherein Sou. Rukhminibai was defendant no.1; who is the plaintiff in Special Civil Suit No.87 of 2001. The learned counsel submits that the issue nos.1,3 and 4 framed below Exhibit 84 were concluded in Special Civil Suit No.30 of 2017, which relates to the same suit property. Grievance is that the learned Judge has not supplied reasons while re-casting the issues. It is, therefore, urged that the learned Judge may be directed to re-caste the issues after hearing the parties.

4 The learned trial Judge ought to have supplied reasons while deciding application below Exhibit 141.

5 In view of this, order dated 28th November, 2014 below Exhibit 141 are quashed and set aside.

6 The learned Judge shall decide the application below Exhibit 141 afresh in the light of findings recorded in Special Civil Suit No.30 of 1970 preferably within two months from today. It is made clear that this Court has not expressed any opinion/view on the merits and the subject application shall be decided by the learned Judge independently without being influenced by this order.

7 Petition is disposed of.

(SANDEEP K. SHINDE, J.)