

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER (STAMP) NO.31991 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.31996 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO.31991 OF 2018**

Mrudula @ Sujata Chandrashekhar Bhide ...Appellant

vs.

Vinayak Gopal Dandekar And Anr. ...Respondents

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Mr. Sandesh D. Patil, i/b. Mr. Prithviraj S. Gole, for the Appellant.

Mr. Prajakt M. Arjunwadkar, for the Respondents.

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CORAM : S.C. GUPTE, J.

DATED : 26 AUGUST 2019

P.C. :

. After the matter is heard at some length, it is agreed between learned Counsel for the parties that the impugned order dated 27 April 2017 may be set aside and the matter remanded to District Judge, Palghar, for a fresh decision in accordance with law. The impugned order dated 27 April 2017, is, accordingly, quashed and set aside. Application, being Exhibit 56, is remanded to the District Court at Palghar for a fresh hearing in accordance with law.

2. It is clarified that even if, for any reason, the court on remand comes to a conclusion that the report of the Court Commissioner cannot be accepted as evidence or on the basis of which alone the

application, namely, Exhibit 56, cannot be decided, the application would have to be anyway decided after considering whatever material is produced by the parties to support or oppose the application. The Appellant/Applicant as well as the Respondents shall be entitled to lead such further evidence or produce such further material before the Court, as they may choose to do.

3. At the joint request of the parties, the learned District Judge is requested to dispose of the application as expeditiously as possible and preferably within a period of six weeks after this order is pointed out to the Court. Either party may produce it before the Court by appearing before the Court on 9 September 2019 at 11.00 a.m.

4. In view of the disposal of the appeal from order, the civil application does not survive and the same is also disposed of.

(S.C. GUPTE, J.)