

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO.188 OF 2018

Shri. Vitthalrao s/o Govindrao Sonekar & others.

VS.

Shri. Ishwar Anandrao Sonekar & others.

Office Notes, Office Memorandum of Coram,
orders
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's

Shri. M.B. Turankar, counsel for appellants.
Shri. U.R. Phasate, counsel for Res. Nos. 1, 2, 4 & 5

CORAM : Manish Pitale J

DATED : 24.09.2019.

During the pendency of the present appeal the contesting parties have entered into a compromise and accordingly a compromise petition was filed in this Court, which was signed by the contesting parties as also the learned counsel appearing for the appellants. On the last occasion when this compromise petition was listed before this Court on 16.09.2019, this Court passed the following order.

“ There is compromise petition filed on record stating that the dispute between the parties has been settled in terms of the clauses stated in the compromise petition. The said petition is stated to be signed by the appellants as well as respondent nos. 1,2,4 and 5 and it is also signed by the learned counsel appearing for the appellants. It is stated that the parties

are present before the Court. The respondent nos. 1,2,4 and 5 are represented through counsel Mr. U.R. Phasate but he is neither present in Court nor his signature is found on the compromise petition. The learned counsel appearing for the appellants is ready to identify the respondents but that course ought not to be adopted by this Court and further verification is necessary in the present case.

2. Hence, place this compromise petition before the learned Registrar (Judicial) on 19.09.2019 for verification as to the genuineness of the said document and then to place report before this Court.

3. List this appeal along with the compromise petition for further consideration on 24.09.2019.”

2. Pursuant to the direction given by this Court learned Registrar (Judicial) conducted enquiry and submitted the following report dated 21.09.2019.

“With reference to the Hon’ble Court’s Order, I am submitting the report of verification on compromise petition arrived between the parties.

Vide stamp No.10200/2019, the appellants No. 1 to 7 and the respondents No.1, 2,4, & 5 have filed compromise petition dated 30.07.2019 in the present Second Appeal.

As per the order of the Hon’ble Court, on 19.09.2019, the appellants and the counsel representing for the appellants were present before me. The above respondents in the compromise petition were also present

before me. The appellants and the respondents have shown their original Aadhar Cards to show their identity. Copies of Aadhar Cards are taken on record. They are also identified by Advocate Shri.M.B.Turankar.

The above appellants and the respondents have admitted the contents of compromise memo as true and correct as per their knowledge and belief. Hence, the report is submitted for kind perusal."

3. In view of the above, it becomes clear that the appellants and respondents No. 1, 2, 4 and 5 have indeed settled the dispute between them. Respondent No. 3 died and her Legal Representatives are already on record.

4. In this situation, a specific query was put to the learned counsel for the appellants as to why the respondents No. 6 to 9 were not party to the compromise petition. The learned counsel for the appellants invited attention of this Court to paragraph No. 2 of the compromise petition, wherein it is specifically stated that the appellants as well as respondents No. 1, 2, 4 and 5 have agreed, as part of the settlement between them, they shall not disturb the title and possession of respondents No. 6 to 9 who were already in possession of the properties that were sold to them. In this backdrop it is specifically stated in the said paragraph of the compromise petition that the presence of respondents No. 6 to 9 is not

required for disposing the appeal in terms of compromise between the parties.

5. In view of above, the present appeal is disposed of in terms of the compromise petition placed before this Court. Accordingly, the appeal stands allowed in terms of the compromise between the parties and the decree would be drawn accordingly.

6. The appeal is disposed of.

JUDGE

KOLHE