

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 SECOND APPEAL NO.239 OF 2021
WITH CA/5453/2021 IN SA/239/2021

NITENDRA GORAKHSING GIRASE

VERSUS

BHASKAR KAUTIK SONAWANE AND OTHERS

...

Mr. M.S. Shah and Mr. S.P. Brahme, Advocates for the appellant

Mr. S.S. Deshmukh, Advocate for respondent Nos.2 and 3

Mr. R.R. Kazi, h/f Mr. A.R. Syed, Advocate for respondent Nos.4 and 5

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 25th AUGUST, 2021.

PER COURT :

1 By pursis, which is now marked as Exh.'X' the original plaintiff Nos.2 and 3 are abandoning their claim to challenge the appointment of the appellant, that is, the relief claimed in the suit filed by the present respondent Nos.2 and 3 in Regular Civil Suit No.298/2008. The pursis has been filed under Order XXIII Rule 1 of the Code of Civil Procedure, 1908. The pursis is signed by both the plaintiff Nos.2 and 3 and their Advocate. As regards the original plaintiff No.1 is concerned, the learned Advocate for the appellant submits that he has already retired now and the appellant would

withdraw the Second Appeal as against him. This abandonment of claim is in pursuance to the settlement, that is, arrived at between the parties. Under such circumstance, when the original plaintiff Nos.2 and 3 can abandon their claim in the suit that can be accepted and as regards the respondent No.1 is concerned, the Second Appeal can be disposed of as withdrawn. Hence, following order.

ORDER

1 In view of the abandonment of the claim by plaintiff Nos.2 and 3, the Judgment and Decree passed by learned Joint Civil Judge Senior Division, Dhule on 20.06.2013 stands set aside, as against plaintiff Nos.2 and 3. So also, the Judgment and Decree passed in Regular Civil Appeal No.90/2013 passed by learned District Judge-3, Dhule on 02.03.2021 stands set aside, as against respondent Nos.2 and 3 therein.

2 Second Appeal stands disposed of as withdrawn, as against present respondent No.1-original plaintiff No.1.

3 In view of above, the Second Appeal stands disposed of.

4 No order as to costs.

(Smt. Vibha Kankanwadi, J.)