

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 SECOND APPEAL NO.419 OF 2020
WITH CA/8253/2020 IN SA/419/2020

INDIRABAI PHALAJI RENGE AND OTHERS
VERSUS
PARVATIBAI RAMRAO SONVANE

...
Advocate for Appellants : Mr. Milind M. Patil (Beedkar)
Advocate for Respondent : Mr. A. V. Lavate h/f Mr. S. J. Salunke
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 02.09.2021

ORDER :-

. The parties have settled their dispute and they have produced on record the compromise which is now marked as Exhibit-‘X’. The terms of compromise have been reiterated by the parties before the learned Registrar (Judicial), who was directed to verify. The report has been submitted by learned Registrar (Judicial) which indicates that Regular Civil Suit No.30 of 2017 was filed for seeking declaration and consequential prayer of injunction. It was in respect of the right to perform Puja and render services in Dargah Hazrat Turabul Haq Shaheb. Now, in terms of settlement, apart from settling her right by the original plaintiff and appellant No.6 regarding right to perform Puja and rendering services to Dargah, which claimed to have inherited by them

through their father deceased Phalaji Renge, they are also relinquishing their right in the land bearing Gut No.593, admeasuring 2 Acre 1 R, in which Dargah is situated. It appears that the right in the said land which is now relinquished by the plaintiff and appellant No.6 was not part of the lease and was not the subject matter of the suit. The said proceeding i.e. suit was right to perform Puja and collect donation. In the catena of judgments of this Court or the Hon'ble Supreme Court, we can get the position that party can also arrive at a compromise with the rival party in a suit in respect of the subject matter, which is not part of the suit and, therefore, there is no hurdle in allowing the parties to have a compromise regarding the same. However, that would be subject to registration of the document and/or payment of stamp duty as required under the Maharashtra Stamp Act as well as Indian Registration Act and, therefore, the said compromise Exhibit-'X' is taken on record and following order is passed :-

ORDER

- I) The Second Appeal stands partly allowed.
- II) The judgments and decrees passed in Regular Civil Suit No.30 of 2017 by learned 2nd Joint Civil Judge Senior Division, Parbhani dated 20.12.2019 and Regular Civil Appeal No.5 of 2020 by learned District Judge-1, Parbhani dated 04.03.2020, are hereby set aside.

- III) The said suit i.e. Regular Civil Suit No.30 of 2017 stands disposed of in terms of compromise Exhibit-'X'.
- IV) Decree be drawn accordingly.
- V) Parties are directed to get the decree registered as per the requirements of law, if any. Secondly, copy of this decree along with true copy of Exhibit-'X' be sent to Sub Registrar, Parbhani for any further action, if required.
- VI) No order as to costs.
- VII) Civil Application No.8253 of 2020 stands disposed of.

[SMT. VIBHA KANKANWADI, J.]

scm