

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 SECOND APPEAL NO.146 OF 2019
WITH CA/3419/2019 IN SA/146/2019

CHAYA SATISH POLAWAR AND ANOTHER
VERSUS

HARIBHAU GOVINDRAO AMILKANTHWAR (DIED) LRS UJJWALA AND
OTHERS

...

Mrs. Surekha G. Chincholkar, Advocate for appellants
Mr. U.B. Bilolikar, Advocate for respondent Nos.3 and 4

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18th NOVEMBER, 2021

PER COURT :

1 Parties have arrived at compromise and the terms have been placed on record, which are not marked Exh.'X'. The applicants are the original plaintiffs, who had filed suit for possession, perpetual injunction and mesne profits. It is to be noted that now the original plaintiffs are admitting the Will left by one Shantabai Yerawar on 16.12.1996 in favour of the original defendant No.1 Haribhau. However, it appears that the defendants had agreed to pay amount of Rs.40,00,000/- i.e. Rs.20,00,000/- each to the appellants and out of that appellant No.2 has received amount of

Rs.4,00,000/- . It has been then mentioned that the remaining amount of Rs.36,00,000/- in the form that Rs.20,00,000/- to appellant No.1 and Rs.16,00,000/- to appellant No.2 will be paid by the defendants on or before 31.12.2021. A stipulation has been made that if the respondents failed to pay the remaining amount, then the settlement would stand cancelled. In view of this kind of settlement, definitely, the decree that will be passed, wherein now the plaintiffs admit that they were not having any existing right but they are receiving huge amount, in view of **Bhoop Singh vs. Ram Singh Major and others, 1995 (2) Mh.L.J., 916**, wherein it has been observed that - *“If a compromise decree were to create for the first time right, title or interest in immovable property of value of Rs.100/- or upwards in favour of any party to the suit, the decree or order would require registration.”* Though in this case by this term no fresh right is created; yet, the right which was claimed in the immovable property is in a way relinquished or in lieu of that claim of the right in the immovable property, the plaintiffs are getting huge amount, therefore, the compromise decree deserves registration.

2 The learned Registrar (Judicial) has verified the terms of compromise and, therefore, in view of the said compromise terms Exh.'X' the Second Appeal stands disposed of. Civil Application stands disposed of.

3 The Judgment and Decree passed in Special Civil Suit

No.31/2008 by learned Joint Civil Judge Senior Division, Nanded on 16.04.2011 and the Judgment and order passed by learned District Judge-4, Nanded in Regular Civil Appeal No.192/2012 on 20.06.2018 is hereby set aside. The suit i.e. Special Civil Suit No.31/2008 stands disposed of in terms of compromise terms Exh.'X'.

4 Decree be drawn accordingly.

5 Copy of the decree be sent to the Sub Registrar, Nanded for further action, in view of Section 17 of the Indian Registration Act, further in view of amendment by Maharashtra State to Section 17 of the Indian Registration Act.

(Smt. Vibha Kankanwadi, J.)

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