

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRA NO. 152 OF 2017

ASHOK DATTOPANT SHAHANE AND OTHERS
VERSUS
CHANDULAL SUKHRAJ BATHIYA AND ANOTHER

...

Advocate for Petitioners : Mr. Patil Pradip R.
and Mr. Chandorikar Indranil
Advocate for Respondent Nos. 1 & 2 : Mr. R.R. Imale

CORAM : RAJESH S. PATIL, J.

DATE : 12th DECEMBER, 2022

PER COURT :

1. This matter was argued for sometime by the Advocates of both sides. It was brought to my notice that the decree dated 31.12.2009 passed in Special Civil Suit No. 91/1995, directs the present respondents to deliver the possession of the suit premises to Shantabai W/o. Motilal Chandaliya and Kantabai W/o. Kachrual Bhandari who were the plaintiffs in that suit. It is further being informed to me that appeal filed against the said decree dated 31.12.2009, being RCA No. 142/2012 is also dismissed for default by order dated 15.12.2017. Therefore, the present respondents (as Landlords) in this matter could not have filed suit for eviction against the appellants (tenant) herein.

2. Hence, learned Advocates for the parties agreed

that the impugned judgment and order dated 19.12.2009 passed in RCS No. 347/2008 and judgment and order dated 02.05.2017 passed in RCA No. 15/2010 be set aside.

3. Both the impugned judgments and order dated 19.12.2009 passed in RCS No. 347/2008 and judgment and order dated 02/05/2017 passed in RCA No. 15/2010 are set aside. In such circumstances, the Civil Judge Junior Division, Jalna, to re-hear the suit by taking into consideration the judgment and decree dated 31.12.2009 passed in Special Civil Suit No. 91/1995 and decide the suit on its merits after allowing the parties to lead evidence. Trial Court should also take on record the certified copy of the decree dated 31.12.2009, which will be placed before the Court by the appellants herein. An attempt be made to dispose off the suit within a period of six months after receipt of this Order.

4. Parties to appear before the Civil Judge Junior Division, Jalna, on 06.01.2023.

5. Civil Revision Application accordingly, stands disposed off.

(RAJESH S. PATIL, J.)