

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
APEAL FROM ORDER NO.40 OF 2016
WITH CA/8510/2016 IN AO/40/2016 WITH AO/41/2016 WITH CA/
8538/2016 IN AO/41/2016**

ISHWAR LALSINGH RAJPUT AND ANOTHER
VERSUS
SURESH CHINDU SHINDE AND OTHERS

...
Advocate for Petitioners : Mr. Patil Prakashsing B.
Advocate for Respondent Nos.1 & 2 : Mr. M.M. Patil (Beedkar)

...
CORAM : S.G. MEHARE, J.
DATED : AUGUST 31, 2023

PER COURT:-

1. This appeal from order has been filed by the plaintiff cum defendant in respective cases. The learned Principal District Judge, Jalgaon by the impugned judgment and order set aside the judgment and decree of the trial Court and directed to decide the suit afresh in the light of observations recorded in para 14 and 15 of the judgment.
2. Learned counsel for the appellants would submit that the learned Principal District Judge erred in remitting the matter back. The depositions of the other side were recorded in criminal case. Its certified copies were placed before the Court. Therefore, those documents should have been received in evidence. The learned Principal District Judge did not consider the legal position and erroneously remitted the matter back to the trial Court.
3. Per contra, the learned counsel for the respondents in this appeal would submit that the impugned judgment and order of the

learned Principal District Judge, Jalgaon is legal and correct. Barely producing the certified copies is not admissible in evidence. Whatsoever the admissions were given by the witnesses in earlier proceeding, those must be referred to and proved. Unless the earlier admissions are proved, barely filing a certified copy is nothing but a piece of paper.

4. Perused the impugned judgment and order. The learned Principal District Judge has rightly considered Section 18 of the Indian Evidence Act. Section 33 of the Indian Evidence Act was also relevant. The procedure as laid in the said Act, how to prove the earlier admissions of the witnesses.

5. The learned Principal District Judge had correctly applied the law. There are no errors of law on the face of record. There is no substance in the appeals. Hence, the following order :

ORDER

- (i) Both Appeal From Order are dismissed.
- (ii) All pending civil applications stand disposed of.
- (iii) The record and proceedings be returned to the Court of learned Principal District Judge, Jalgaon.

(S.G. MEHARE, J.)