

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

37 SECOND APPEAL NO.608 OF 2012

Ashok s/o Hilal Sonwane,

...Appellant

VERSUS

1. Shankar s/o Sada Bidkar dead through Lrs.

1-A. Atmaram Shankar Bidkar,

Age; 65 years, Occ; Agri,
R/o; Near Panjara Pol Water Tank,
Badam Galli, Beside Sidheshwar Mandir,
jalgaon, At post Tq. District Jalgaon.

1-B. Sow. Durga Tukaram Kshirsagar,

Age; 50 years, Occ; Household,
R/o; Bari Galli Near Small Water Tank,
Panjara Pol Jalgaon,
At post Tq. District; Jalgaon.

1-C. Sow Damota Devram Mahale,

Age; 55 years, Occ; Household,
R/o; Hadsan Vahan, Tq. Pachore,
District; Jalgaon.

1-D. Sow Lilabai Chindha Naterao,

Age; 45 years, Occ; Agri,
R/o; Nimbhora, Tq. Soegaon,
District; Aurangabad.

...Respondents

WITH
CA/10133/2012 IN SA/608/2012

...

Advocate for Appellant : Mr.Deshmukh Arvind
Advocate for Respondent Nos. 1, 1A, 1C and 1D : Mr.V. Y. Patil

...

CORAM : KISHORE C. SANT, J.

DATE : 28.08.2023.

PER COURT :

1. The Second Appeal is filed against the judgment and the order passed by the learned District Judge-1, Aurangabad, whereby, the decree passed by the trial Court came to be set aside. The Trial Court had the suit of specific performance on depositing an amount of Rs. 1,70,000/- towards the remaining consideration. The defendant had filed an appeal and the said decree came to be set aside. Against that, the original plaintiff has come to this Court. Now the appellant/Original plaintiff wants to withdraw the Second Appeal. In the trial Court the appellant/plaintiff had deposited Rs. 1,70,000/- in Special Civil Suit No. 482 of 2007. Since the appellant wants to withdraw the appeal, he is entitled to receive that amount which is deposited in the trial Court on 21.10.2009. Thus, the Second Appeal is allowed to be withdrawn. The respondent has no objection to allow the appellant/plaintiff to withdraw an amount he has deposited in the suit. Considering the above, Second Appeal is allowed to be withdrawn. The trial Court shall allow

the appellant/plaintiff to withdraw an amount of Rs. 1,70,000/- (Rs. One Lakhs and Seventy Thousand Only) along with accrued interest if any, without requiring to file formal application. The appellant is present in Court in person and the order is passed in his presence. In view of the withdrawal of the Second Appeal the pending Civil Application No. 10133 of 2012 stands disposed off.

(KISHORE C. SANT)
JUDGE

mahajansb/