

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 1211 OF 2014
WITH
CIVIL APPLICATION NO.1462 OF 2014**

Lahu Ramchandra Bhoir & Ors.

..Appellants

Vs.

Shri. Hiranman Bama Bhoir & Ors.

...Respondents

Mr. B. G. Tangsali for Appellants.

Mr. Abdul R. Shaikh for Respondent Nos.1B, 1C(1) to 1(C)(5), 9, 3B, 4, 5, 11 and 12.

CORAM : G.S. KULKARNI, J.

DATE : JANUARY 11, 2023

P.C.:

1. Heard Mr. Tangsali, learned counsel for the appellants Mr. Shaikh, learned counsel for the respondents.

2. This appeal has been filed against an order dated 16 April, 2014 passed by the learned District Judge-3, Raigad, Alibag, whereby an application (Civil Miscellaneous Application No.104 of 2010) as filed by the respondents/original plaintiffs seeking the review of the judgment and order dated 20 October, 2010 passed by the learned District Judge on Appeal No. 102 of 1995 has been allowed. The operative part of the impugned order is required to be noted which reads thus:-

“ **ORDER**

Application is allowed.

The Judgment and decree passed by trial Court in R.C.S. No. 44/1986 dated 23.3.1995 is hereby quashed and set aside.

R.C.S. No.44/1986 is remanded back to Civil Judge, J.D. Pen for its hearing afresh and disposal according to law.

Trial Court is directed to give opportunity to both the parties to adduce further evidence if any.

The trial Court is directed to expedite the suit and decide the same any how within one year from receipt of R & P

R & P of R.C.S. No. 44/1986 be sent back to Civil Court, J.D. Pen.”

3. This appeal was filed on 02 August, 2014. The proceedings have remained pending since then. Perusal of the record indicates that there was no stay granted to the impugned order passed by the learned Judge. In the meantime, as pointed out at the bar, the suit has progressed.

4. In the aforesaid circumstances and as it is almost about 8 years that the impugned order has been passed, in my opinion, it is appropriate that the suit itself is decided on its own merits by the learned trial Judge as expeditiously as possible. All contentions of the parties in that regard on the merits of the suit are expressly kept open.

5. As the suit pertains to the year 1986, the same be decided by the learned trial Judge by taking up the same on day to day basis. The learned Judge shall decide the suit as early as possible and preferably within a period of six weeks from today.

6. Parties to the suit are directed to co-operate in the early disposal of the suit.

7. Disposed of in the above terms.

8. Authenticated copy of this order be placed by the appellants

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before the trial Court on the adjourned date of hearing so that the learned trial Judge shall accordingly proceed in the matter.

9. The civil application would not survive. It is accordingly disposed of. No costs.

10. Additionally office to forward the order to the appropriate trial Court.

[G.S. KULKARNI, J.]