

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.135 OF 2023

WITH

INTERIM APPLICATION NO.5 OF 2023

IN

SECOND APPEAL NO.135 OF 2023

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Shri. Narayan Maruti Ghorpade

...Appellant/
Applicant

V/s.

Sou. Anjira Bhimrao Ghorpade

...Respondent

Mr. Shailesh Chavan, for the Appellant/Applicant.

Mr. Pradeep S. Gole, for the Respondent.

CORAM : MADHAV J. JAMDAR, J.
DATED : MAY 3, 2023

P.C.:

1. Heard Mr. Chavan, learned counsel appearing for the Appellant and Mr. Gole, learned counsel appearing for the Respondent.

2. Both, learned counsel appearing for the Appellant and the Respondent state that, the Appellant and the Respondent have settled the dispute and both of them tender Consent Terms. The Consent Terms are signed by the Appellant as well as the Respondent. Both, learned counsel appearing for

the Appellant and the Respondent respectively identifies their signatures. Both, the Appellant and the Respondent are present in Court and both of them confirm that, the dispute between them is settled in terms of the Consent Terms. The said Consent Terms are taken on record and marked 'X' for identification. The said Consent Terms read as under :

a) The Appellant has accepted the Judgment and Decree dated 3/02/2022 passed by the Learned District Judge – 2 Satara, passed in Regular Civil Appeal No. 256 of 2015 and withdraws the present Second appeal.

b) The Respondent shall pay sum of Rs. 4,50,000/- (Rupees four lacks fifty thousand only) only to the Appellant in addition to part consideration Rs. 1,82,000/- paid earlier at the time of execution of agreement for sale dated 7/10/2004. Except the said amount of Rs. 4,50,000/- Respondent shall not pay any more amount to the Appellant.

c) The Respondent shall pay said sum of Rs. 4,50,000/- to Appellant at the time of execution of sale deed.

d) The Appellant immediately after disposal of the present Second Appeal and not later than 15 days therefrom shall prefer necessary application for obtaining permission from the

Competent Authority. The Appellant shall execute necessary sale-deed in respect of the suit property in favour of the Respondent within period of 15 days from the date of obtaining due permission from the Competent Authority.

e) Both the parties shall make endeavour to obtain necessary permission from the Competent Authority and shall extent co-operation in that regard by signing necessary documents in that regard. The expenses for obtaining permission from the Competent Authority shall be borne by the Appellant.

f) The Appellant shall remove charge/lien of the Khojewadi Vividh Karyakari Seva Society Ltd. Branch Khojewadi created by the Appellant over the suit land and clear 7 x 12 extract on or before the execution of sale deed.

g) The Appellant is admitting the Respondent is in possession of the suit land and he shall not disturb her possession forever.

h) If Appellant fails to prefer an application and obtain sale permission from competent authorities and execute the sale deed within 9 months as agreed hereinabove, the Respondent shall not pay said sum of Rs. 4,50,000/- to Appellant and Respondent shall proceed further in execution proceeding, bearing No. 80/2022 for execution of Sale- Deed as per the Judgment and Decree dated 3/02/2022 passed by the Ld.

District Judge- 2 Satara, in Regular Civil Appeal No. 256 of 2015.

i) The aforesaid terms and conditions are binding upon the Appellant and Respondent and further on their respective heirs.

3. The Judgment and Decree as passed by the learned First Appellate Court dated 3rd February, 2022 in Regular Civil Appeal No.256 of 2015 is modified in above terms and the said Regular Civil Suit No.997 of 2012 is decreed in above terms.

4. The Second Appeal is disposed of in terms of the Consent Terms with no order as to costs.

5. As the Second Appeal is disposed of, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]