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

SECOND APPEAL NO.111 OF 2015

Shri. Pravin Keshav Bhargat ...Appellant

Versus

The State Bank of India and Anr. ...Respondents

- Mr. Ganesh Koli i/b. Aruna Koli, for the Appellant.
- Mr. Drupad S. Patil, for the Respondent No.2.

CORAM : VINAY JOSHI, J.
DATE : 29th SEPTEMBER 2023

P.C.:

1. This is Second Appeal of original plaintiff who has sought negative declaration that Probate is not required in Mofussil area viz. Taluka Khalapur, District Raigad. The said area admittedly, falls outside the Original Jurisdiction of this Court. The Trial Court has dismissed the suit for want of jurisdiction as well as First Appellate Court has affirmed the said finding. Being aggrieved, the original plaintiff came in Second Appeal retrieving his prayer for declaration that Probate is not required in said area.

2. It is settled position of law that the Probate is required only within the local limits of Ordinary Original Civil Jurisdiction of this Court in terms of Section 213 r/w 57 of the Indian Succession Act, 1925. Admittedly, Taluka Khalapur falls outside the Original Civil

Jurisdiction of the Court. Learned counsel Shri Patil for Respondent No.2 also conceded the said legal position.

3. It is brought to the notice that already Will in question is subject matter of Civil Suit No.146 of 2007 (Civil Suit No.99 of 2012) pending in between the parties on the file of Civil Court Karjat. It is informed that the said suit is at the stage of final arguments. First Appellate Court has taken into account said aspect in paragraph 12 of its decision. Though Probate is not required, however, it reveals that Will is contested by the defendant and it requires adjudication by Competent Civil Court.

4. In view of above, by consent, Appeal is disposed of with clarification that aspect of Will would be dealt with by Civil Judge, Karjat in accordance with law. Parties shall prosecute the said suit.

5. All contentions raised in this Appeal are kept open.

[VINAY JOSHI, J.]