

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 APPEAL FROM ORDER NO. 41 OF 2024

Smt. Manoramabai Rayaba Chavan (deceased) Thr. Lrs. Mrs.
Vaishali Vijaykumar Deshmukh

VERSUS

Gopaldas Narayandas Barshikar (deceased) Thr. Lrs. Pradeep
Alias Sandip Gopaldas Barshikar And Ors.

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Advocate for appellant : Mr. D R. Shelke

CORAM : S. G. CHAPALGAONKAR, J.

Dated : December 04, 2024

PER COURT :-

1. Heard Mr. Shelke, learned advocate appearing for the appellant.
2. Learned counsel submits that plaintiffs had instituted suit seeking decree of partition and separate possession in respect of the suit property. They had also claimed the mesne profit. Trial Court dismissed the suit. Plaintiff then filed appeal before the District Court. Learned District Court partly allowed the appeal by setting aside judgment and decree passed by the Trial Court and remanded matter back for appointment of the Court Commissioner to ascertain original share of respondent nos.1 and 2 and 21/80th share of the appellants in the suit property.
3. Learned counsel submits that there was no dispute as regards to identification of the property since plaintiffs are claiming joint possession in the suit property. Therefore, there was no necessity to appoint Court Commissioner and identify

the property. Appellate Court has unnecessarily passed order of remand instead of deciding the core issues involved in the matter.

4. Considering the submissions advanced, issue notice to the Respondents, returnable on 12.2.2025.

5. Till then, there shall be ad-interim relief in terms of prayer clause "D".

(S. G. CHAPALGAONKAR, J.)

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