

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

SECOND APPEAL NO. 160 OF 2019

Sou. Lata Vilas Kamble & Ors.

....Appellants

(Orig. Defendant)

V/s.

Smt. Jagdeep Namdev Kamble

and anr.

....Respondents

(Orig. Plaintiffs)

Mr. Prasad P. Kulkarni, for the Appellants.

Mr. Swapnil Ravindra Patil, for Respondent No.1.

CORAM : SANDEEP V. MARNE, J.

Dated : 14 February 2024.

P.C. :

1. The learned counsel appearing for the Appellants and Respondent No.1 have tendered Consent Terms by which the dispute has been amicably resolved between the Appellants and Respondent No.1. It appears that Respondent No.1 was the Original Plaintiff who had filed Regular Civil Suit No. 159 of 2013 against the Appellants challenging the Will dated 10 January 2002 in favour of Appellants by Namdev Kamble. The Suit was decreed

on 18 June 2011 in favour of Respondent No.1. When the Original Defendants/Appellants filed Appeal before the District Court, Respondent No.2 herein filed application for impleadment in the Appeal and he was apparently impleaded as Respondent No.2 in Regular Civil Appeal No.165 of 2011. The Appeal came to be dismissed by Decree dated 23 April 2018. In the present Appeal, Ramesh Namdeo Kamble is impleaded as Respondent No.2 as he was allowed to intervene in the Appeal before the first Appellate Court.

2. Now the original parties to the suit i.e. the Appellants and Respondent No.1 have compromised the suit and have executed Consent Terms. Despite issuance of notices, Respondent No.2 has failed to appear in the Appeal. Since Respondent No.2 was not a party to the original proceedings, it is not necessary to await appearance of Respondent No.2. In any case, Respondent No.2 cannot expect order/relief in his favour in the suit instituted by Respondent No.1 or in the present Appeal filed by the Original Defendants. He would be at liberty to adopt appropriate proceedings in respect of his rights, if any. In my view, therefore the Consent Terms executed by the Original Plaintiff and Defendants can be accepted and the present Appeal can be disposed of accordingly.

3. The Consent Terms are taken on record and marked 'X' for identification. The Consent Terms are signed by Appellant No.1

for herself and as Constituted Attorney of Appellant Nos.2 and 3. The Consent Terms are also signed by Respondent No.1. Appellant No.1 and Respondent No.1 are personally present before this Court and admit their signatures on the Consent Terms as well as the contents thereof.

4. The Second Appeal is accordingly **disposed of** in accordance with the Consent Terms. A compromise decree be drawn up accordingly.

SANDEEP V. MARNE, J.