

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 90 OF 2016

Madhusudan Pandharinath Thombre
and anr

....Appellants

Vs.

Gokulabai Babasaheb Shinde and Ors

....Respondents

Mr. Dinesh @ Dnyaneshwar Bhosale for the appellant

Mr. Veerdhawal Deshmukh, Ms. Pushpanjali Kalebag i/b Ms. Tanvi Tapkire for respondent no. 1

Mr. Akshay R. Kulkarni a/w Mr. Siddharth Shitole i/b Mr. Ashutosh M. Kulkarni for respondent nos. 9A to 9D and 10.

Mr. Vinod Sukhdev Nangare power of attorney holder for respondent nos. 9A to 9D and 10

Gokulabai Shinde through power of attorney Ramesh Babashaeb Shinde

Rajendra Madhusudan Thombare appellant no. 2

CORAM : GAURI GODSE, J.

DATE : 18th NOVEMBER 2024

ORDER:

1. Present second appeal is filed by defendant nos. 4 and 7 who are purchasers of the house property. The parties have settled their dispute only with respect to house property. Hence, this second appeal is de-tagged from Second Appeal No. 958 of 2015.

2. Learned counsel for the appellants submits that appellant no. 1 expired during the pendency of the first appeal. He further submits that appellant no. 2 is the heir and legal representative of deceased appellant no. 1. Hence, he seeks leave to delete appellant no. 1.

3. Learned counsel for the appellant further submits that respondent nos. 2, 3 and 4 are the original defendant nos. 1, 2 and 3 who had already consented to the sale deed executed in favour of the appellants. Second appeal already stands abated against respondent no. 4. Learned counsel for the appellant seeks leave to delete respondent nos. 2 and 3. He further submits that respondent nos. 5 to 8 are purchasers with respect to the landed properties, hence, they are not necessary parties in the second appeal. He submits that the dispute with regard to landed properties is the subject matter in the connected Second Appeal No. 958 of 2015. He therefore seeks leave to delete respondent nos. 5 to 8.

4. Leave granted. Learned advocate for the appellants is permitted to delete the aforesaid parties at the risk of the appellants. Amendment to be carried out forthwith in the Court.

5. Learned counsels appearing for the parties have tendered the

consent terms dated 18th November 2024. The consent terms are signed by appellant no. 2 and his advocate, power of attorney holder of respondent no. 1 and her advocate, respondent no. 9C for himself and as power of attorney holder of respondent nos. 9A, 9B and 9D and consent terms is signed by their advocate. The signatories to the consent terms are present in the Court. Both the power of attorneys are annexed to the consent terms. The signatories admit their signatures and the contents of the consent terms to be true and correct. The parties are identified by their respective advocates. The consent terms dated 18th November 2024 is taken on record and marked 'X' with today's date for identification.

6. I have perused the terms of the consent terms with reference to the dispute in both the second appeals. The terms are legal and valid. As agreed in the consent terms, the demand drafts are handed over by the learned advocate for the appellants to the respective advocates. The assurances recorded in the consent terms are accepted as undertakings to this Court.

7. In view of the deletion of names of respondent nos. 2 and 3 and 5 to 8, learned counsels seek liberty to make necessary corrections in

the title of the consent terms.

8. Leave granted. Corrections to be carried out forthwith in the Court.

9. Second Appeal No. 90 of 2016 is disposed of in terms of the consent terms.

[GAURI GODSE, J.]