



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 515 OF 2017
WITH
CIVIL APPLICATION NO.786 OF 2017
IN
SECOND APPEAL NO. 515 OF 2017

Raju Gafoor Deshmukh and Ors.

... Appellants.

Versus

Smt. Shahajadbi Abdul Fakir and Ors.

... Respondents.

Mr. Sanjay P. Shinde for the Appellants.

Mr. Sandeep D. Shinde for the Respondent Nos.1 to 10.

Coram : Sharmila U. Deshmukh, J.

Date : May 06, 2024.

P. C. :

1. After being heard for considerable length of time, learned counsel for the parties, on instructions, submits that as the Appellate Court has failed to frame and decide the necessary issue as to whether Grampanchayat House No.1102 which was the subject matter of the proceedings was located on Gat No.375, in view of the rival claims being raised, the matter be remanded to the Appellate Court to frame and determine said point on the basis of evidence which has already been led before the Trial Court.

2. In view of the consensus which have been arrived at between the learned counsel for the parties, Regular Civil Appeal No.42 of 2009 is remanded to the Court of District Judge, Niphad, District Nashik to

frame and decide the point as to whether Grampanchayat House No.1102 is situated on Gat No.375 (old survey No.386/1/a) and thus whether the plaintiff proves that the suit property is owned by them.

3. The Appellate Court is requested to determine the said issue after hearing the counsel for the parties. The parties will appear before the Appellate Court on 10th June, 2024. The Appellate Court to frame and determine the said issue expeditiously and in any event within a period of eight weeks from 10th June, 2024.

4. Both the parties agree to co-operate with the Appellate Court and not seek unnecessary adjournments.

5. In light of the above, Second Appeal stands disposed of in the above terms. In view of the disposal of the Appeal, Civil/Interim Applications, if any, taken out in this Appeal, does not survive and same is disposed of.

[Sharmila U. Deshmukh, J.]