

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.127 OF 2014

Abdul Ahad Mohd. Ismail & Anr. ...Appellants

Versus

Sahebrao Hari Patil & Ors. ...Respondents

WITH

CIVIL APPLICATION NO.335 OF 2014

IN

SECOND APPEAL NO.127 OF 2014

Abdul Ahad Mohd. Ismail & Anr. ...Applicants

Versus

Sahebrao Hari Patil & Ors. ...Respondents

WITH

CIVIL APPLICATION NO.909 OF 2014

IN

SECOND APPEAL NO.127 OF 2014

Abdul Ahad Mohd. Ismail & Anr. ...Applicants

Versus

Sahebrao Hari Patil & Ors. ...Respondents

Mr. R. S. Apte, Sr. Advocate, i/b Mr. Mateen A. R. Shaikh a/w Ms. Afrin Khan for the Appellants/Applicants.

Mr. Prafulla B. Shah a/w Mr. Gunjan Shah i/b Mr. Kayval P. Shah for the Respondents.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 4, 2024

P. C. :

1. At the outset, learned counsel for the Appellants and the Respondents submits that the respective parties are present in Court and the submissions are made on their instructions.
2. The Appeal can be disposed of in view of the consensus arrived at between the learned counsel for the parties that the Regular Durkhast No. 27 of 2006 will be amended by the Respondents to correct the description of the suit property therein accordance with the description of the suit property given in Regular Civil Suit No. 268 of 1991 and in the decree passed on 2nd January, 2006.
3. Mr. Apte, learned Senior Advocate appearing for the Appellants on instructions, submits that the Appellants stand by the statement which has been recorded during the hearing of the application below Exhibit 23 in execution proceeding, which finds place in paragraph No. 9 of the Judgment dated 30th July, 2010.
4. In view of the consensus arrived at between the parties, it is not necessary for this Court to go into the merits of the matter. The Respondents are permitted to amend the Execution Application to correct the description of the suit property in accordance with the description given in the Suit and Decree passed in Regular Civil Suit No. 268 of

1991. The amendment to be carried out within a period of four weeks from the date of uploading of the present order. Executing Court to thereafter consider the Execution Application in accordance with law and on its own merits.

5. Subject to the submission recorded of the learned Senior Advocate, on instructions, as regards the statement made in paragraph No. 9 of the Judgment dated 30th July 2010, the Judgment dated 30th July, 2010 and the order of the Appellate Court dated 30th December, 2013 are quashed and set aside.

6. As the Execution Application has been pending since the year 2006 in Suit of the year 1991, the Executing Court is requested to decide the Execution Application expeditiously and in any event within a period of three months after the amendment to the Execution Application being carried out by the Respondent.

7. Second Appeal stands disposed of in the above terms

8. In view of this order the Civil Applications do not survive for consideration and the same are also disposed of.

(SHARMILA U. DESHMUKH, J.)