



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 357 OF 2012

Rahiman Miyabai Mulani
(deceased Thr. L/H. R.No.2) Bashir Rahiman Mulani ... Appellant.

Versus

Shabirabi w/o Aba Mulani ... Respondent.

Mr. Sanjay D. Thokade for the Appellant.

Mr. Chaitanya Nikte a/w. Mr. Abid Mulani i/by Mr.A.B. Tajane for the Respondent No.1.

Mr. A.S. Gawai, AGP for the Respondent Nos.2 and 3-State.

Coram : Sharmila U. Deshmukh, J.

Date : April 29, 2024.

P. C. :

1. After the Second Appeal was heard for substantial period of time, learned counsel for the parties submitted that as the judgment of the Appellate Court dated 22nd December, 2011 did not render any finding on the issue of limitation which was specifically raised and adjudicated by the Trial Court, the matter be remanded to the Appellate Court for framing the issue and rendering a finding on the issue of limitation.

2. In view of the consensus arrived between the learned counsel for the parties, Regular Civil Appeal No.34 of 2005 is restored to the file of the District Court at Solapur to frame an issue of limitation and decide the same on re-appreciation of evidence.

3. This Court is informed that there is District Court which is established at Barshi and as such, Appeal would lie before the District Court at Barshi. The District Court, Solapur is requested to transfer the Appeal to the concerned Court at Barshi, if so, competent to decide the same.

4. It is made clear that the appeal is restored to the file of District Court only for the purpose of deciding the issue of limitation. Liberty to both the parties to raise all contentions concerning the issue of limitation. Upon the said issue being decided, it is open for the parties to challenge the entire findings, if so advised. Appeal to be decided within a period of four months from today.

5. Second Appeal is disposed of in the above terms.

6. 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.

7. Record and Proceedings be sent back to the concerned District Court.

[Sharmila U. Deshmukh, J.]