



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

59 APPEAL FROM ORDER NO. 55 OF 2012
WITH
CIVIL APPLICATION NO. 8371 OF 2025
IN AO/55/2012
WITH
CIVIL APPLICATION NO. 4061 OF 2012
IN AO/55/2012

BABAN PANDURANG KARAD AND OTHERS
VERSUS
LAXMAN KERU KARAD DECEASED THR LRS SITABAI LAXMAN KARAD
DECEASED THR HER LRS SHIVAJI ANANDA NAGARE

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Advocate for Applicant : Mr. Shahaji K. Shinde
Advocate for Respondent nos. 1 & 3 : Mr. Mr. A.N.Nagargoje
Advocate for Applicant in CA 8371/2025 : Mr. A.N. Nagargoje
Advocate for Respondent Nos. 3,4 and 5 in CA 8371/2025: Mr. Aditya N.
Sikchi
Advocate for Applicant in CA No. 4061/2012 : Mr. Indrajit S. Thorat

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CORAM : SHAILESH P. BRAHME, J.

DATE : 09.10.2025

PER COURT :

Heard both sides.

2. This appeal is directed against order dated 17.02.2012, passed by the lower Appellate Court remanding the matter to Trial Court for deciding it afresh. The parties are *ad idem* on the following substantial question of law:

“Whether the Lower Appellate Court is justified in remanding the matter to the Trial Court in the given facts and circumstances?”

3. Both sides canvassed their submissions.

4. The appellant is one of the plaintiff of Regular Civil Suit No. 61/1993 preferred for partition and possession along with respondent nos. 10 and 11. On merits, the suit was decided and it was partly decreed vide judgment dated 10.03.2000. Being aggrieved, Regular Civil Appeal No. 952/2000 was preferred by respondent nos. 1, 3 and 4. By recording elaborate findings, the Lower Appellate Court found that remand of the matter is necessary. Certain material aspect of the matter has not been gone into.

5. I have considered the impugned order especially paragraph no. 18. I find that lower Appellate Court has applied mind judiciously. There is no need to interfere in the findings recorded by the Courts below. It would be in the interest of both parties to go for trial afresh on the points recorded by the lower Appellate Court.

6. Its a matter of record that Regular Civil Suit No. 61/1993 has not been concluded yet. The substantive rights of the parties are involved in the matter, which needs to be addressed by extending an opportunity to them. I do not find any fault in the order of remand.

7. Appeal from Order is dismissed. Impugned judgment and order is hereby confirmed.

9. Parties shall appear before the Trial Court on 10.11.2025.

10. Pending Civil Applications are disposed of.

(SHAILESH P. BRAHME, J.)

mkd/-