

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

201 SECOND APPEAL NO. 346 OF 2017

SOMNATH EKNATH KALE AND OTHERS
VERSUS
NIVRUTTI MARUTI KALE AND OTHERS

...

Advocate for Appellants : Mr. Mane Dhananjay A.
Advocate for respective Respondents : Mr. Kakde Yuvraj V.
Advocate for Respondent No.2 : Mr. Pankaj A. Bharat.

...

CORAM : SHAILESH P. BRAHME, J.
DATE : 17.11.2025

PER COURT :-

1. Heard respective learned counsels for the parties.
2. Appellants and heirs of respondent No.1 are present before the Court. The parties have tendered on record the terms of settlement, affidavits and the report of learned Registrar (Judicial). In pursuance of the order of this Court, the identification and the confirmation of the terms have been recorded by learned Registrar (Judicial).
3. With the assistance of the learned counsels, I have independently verified the identification of the parties present today.

4. In view of the terms of the settlement, both parties agreed to substitute judgment and decree passed by the Lower Appellate Court by the decree passed in Trial Court in Regular Civil Suit No.147 of 2006. I made specific query to the learned counsels in respect of right and interest of defendant No.2 Eknath Dagdu Thorat and No.3 Laxman Annaji Kale. The terms of the settlement is silent regarding defendant Nos.2 and 3.

5. The learned counsels would submit that the suit was abated as against defendant No.3. Defendant No.2 who is respondent No.2 in the appeal was served. The interest of defendant No.2 was assigned in favour of defendant No.1 Nivrutti long back. For that purpose, my attention is adverted to the observations of the Trial Court in paragraph No.9 of the judgment dated 22.04.2010. It refers that suit land was originally belonging to defendant No.3. It was sold by him to defendant No.2 on 15.04.1972. Thereafter, it was further sold by defendant No.2 on 20.04.1977 vide sale deed at Exh.57 in favour of defendant No.1. The legal heirs of defendant No.1 Nivrutti are present today and entering into settlement.

6. It reveals from record that though respondent No.2/ original defendant No.2 is not present before the Court, no

prejudice would be caused. There is no impediment in permitting the parties to settle the matter as per their terms.

7. Second appeal is disposed of in view of the settlement terms produced on record which are duly verified by the parties.

8. The decree passed by the Lower Appellate Court shall be substituted by the terms of settlement and it shall be part of the decree.

9. A decree shall be drawn accordingly.

10 Second appeal is disposed of as withdrawn.

(SHAILESH P. BRAHME, J.)

...

vmk/-