



**.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

14 APEAL FROM ORDER NO. 58 OF 2023

WITH CA/11484/2023

VITHAL THAVARA RATHOD AND ANOTHER

VERSUS

**SHESHERAO THAVARU TATHOD (DECEASED) THR. LRS
PREMALABAI SHESHERAO RATHOD AND OTHERS**

...

Advocate for Appellants : Mr. G. R. Syed

Advocate for Respondent Nos. 1/1 to 1/4 & 2 : Mr. S.B.

Bhaskar

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 25, 2025

PER COURT :-

1. Heard learned Advocate appearing for the appellants.

2. It is submitted that by impugned order, the ex-parte decree passed by the trial Court has been set aside and matter has been remanded to the trial Court by exercising powers under Order 41 Rule 23 (A) of the Code of Civil Procedure.

3. Mr. Syed submits that even after remand the LRs of defendant no. 1 as well as defendant nos. 2 and 3 have failed to file the reply. As such no purpose is going to serve by remand of the matter. However, the submissions as advanced by Mr. Syed cannot be countenanced. If defendants have not taken opportunity to file written statement or lead evidence, even after remand of the matter, they shall suffer. For that reason, the order of remand cannot be interfered. However, considering the

circumstances as pointed out, trial Court to expedite hearing of the suit and decide the same within a period of nine months from today. Parties to cooperate. Civil Application stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

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