

Order below Exh. 37 in Regular Civil Appeal No.31/2011
(Dayaram Kashiram Dhumale Vs. Ramrao Pandurang Kokate [deceased]
Through LRs)

(CNR No. MHAK05-000144-2011 .)

Order Below. Exh.37
(Dated 21st August, 2024)

This is an application by the appellant seeking amendment in the appeal memo. The proposed amendment pertains to raising additional grounds in the array of grounds of objection/appeal memo. Those grounds are as follows-

i] The learned lower court ought to have seen that the possession of the appellant over the suit field was even prior to entering contact of purchase of suit field with deceased respondent and therefore, as the possession of the appellant over the field was lawful and therefore, he become deemed tenant as contemplated by the provisions of BTAL Act, 1958.

ii] The learned lower court ought to have framed the said issue and sent the same for determination as per provisions of BTAL Act, 1958 to the competent authorities under the said Act.

2. According to the appellant, the proposed amendment in the appeal memo is necessary to determine the real question in controversy. To that tune, amendment in appeal memo is prayed for.

3. Other side resisted the application by submitting that, plea in the proposed grounds of objection were already taken and issue thereabout was deleted. Writ Petition against it

was moved by the appellant. The said Writ Petition was rejected. Accordingly, the application is prayed to be rejected.

4. Heard.

5. The record would reveal that, the main appeal is adjourned for final hearing. In this premise, the Hon'ble Apex court has observed that it will be open to the petitioner [the present appellant] to press his appeal on all grounds available to him in law. Hence, this Court is of the considered opinion that it will be necessary to allow the appellant to press his appeal on all grounds available to him in law. The present application coupled with objections would be considered alongwith the main appeal. Cost in cause.

Place : Akot,
Date : 21/08/2024.

(B. M. Patil)
District Judge -1,
Akot.