


MHLA050008382016	<u>Order below Exh.1 in R.C.S.No.76/2016</u>
	<u>Nazir S/o. Khurshid Sayyed</u> <u>Vs.</u> <u>Afzal S/o. Husensab Attar</u>

The suit is filed for perpetual injunction. The defendants appeared and filed their written statement below Exh.20. Issues were framed on 30/01/2014 below Exh.47. Evidence was lead upon the issues. The Judgment was pronouncement on 18/03/2017. Before passing the Judgment, issues were re-framed on the day of Judgment and without giving opportunity to lead evidence on the re-framed issues, Judgement was pronounced. These were the grounds in R.C.A.No.19/2017. Accordingly, the appeal was allowed and the Judgment and decree in R.C.S.No.237/2013 (present suit) was set-aside. The case is remanded to the Trial Court (this Court) to give an opportunity to the parties to lead the evidence in regard to the re-framed issues on 18/03/2017 and to decide the matter afresh.

2. As the Judgment and decree in the present suit passed by the learned predecessor of this Court is set-aside, and order is passed to lead evidence in regard to the re-cast/re-framed issues afresh, the earlier evidence led by the parties in the suit is of no use. Therefore, the parties are directed to led the evidence as is directed in R.C.A.No.19/2017 without fail on the next date.

3. It is very much made clear that, the parties shall not amend pleadings as that was not the fact in issue before the Hon'ble District Court, Ahmedpur. The plaintiff is absent today, his

Advocate had filed pursis on 11/07/2024 for appearance. So it is specific direction to the plaintiff to submit his examination in chief on the next date, failing which the suit shall be dismissed in his default and for want of leading evidence. The matter being one of the oldest one in this Court, shall be tried expeditiously by giving consecutive dates. The parties to do the needful on each date. The order be noted by the learned advocates for both the parties or by the parties.

Sd/-

(S.N.Sarde)

Civil Judge Sr. Div., Ahmedpur.

Date:12/08/2024.