


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 matter is remanded by the Hon'ble District Court, Ahmedpur with a direction to give opportunity to the parties to lead evidence in regard re-cast issues dated 18/03/2017 and to decide the suit a fresh.

2. On perusal of the issues, it is found that, the Hon'ble Civil Judge Junior Division, Ahmedpur had framed the original issues below Exh.47 on 30/01/2014. The matter was transferred to the Civil Judge Senior Division Court. On 14/05/2017 the issues were re-framed as per Order-XIV Rule-5 of C.P.C. Thereafter, Judgment was pronounced on 05/04/2017 and the suit was dismissed and the counter claim was decreed.

3. Appeal was preferred against the decree bearing No.R.C.A.No.19/2017 wherein the above order was passed by the Hon'ble District Court.

4. Today learned Advocates for the respective parties and the parties are present before the Court. Issues framed by the Civil Judge Junior Division and the Civil Judge Senior Division, Ahmedpur, both are taken for consideration before this Court. Learned advocates for the parties are brought to their notice that, the issue Nos.1, 2 and 3 are

common. The new issues raised as issue Nos.4 and 5 on 18/03/2017. The parties to lead the evidence on the new issues as the evidence on the earlier issues is thereon record. Issue No.4 is to be proved by the defendant. Issue Nos.2 and 5 are legal issues, dependent upon the facts. So only evidence which can be adduced and permitted is the evidence upon issue No.4 of the requisite issues.

5. Learned advocate for the plaintiff Shri.Uppe has pointed out that, the defendant to lead evidence on the sale deed, the plaintiff should have right to lead the rebuttal evidence, which is correct. Therefore, the parties to lead evidence on issue No.4 and to submit upon the legal issues Nos.2 and 5.

Sd/-

(S.N.Sarde)

Date:03/09/2024.

Civil Judge Sr. Div., Ahmedpur.