

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Appeal Against Order Stamp No.10100/2021

Santosh Satyanarayan Lanjewar & Ors. Vs. Gaurishankar s/o Jairamji Deshkar

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.L. Khapre, Senior Advocate i/b Shri D.R. Khapre, Advocate for the Appellants.
 Shri A.M. Quazi, Advocate for the Respondent.

CORAM : S.M. MODAK, J.

DATE : 21st SEPTEMBER, 2021.

Pursis Stamp No.01/2021

The first Appellate Court has delivered the judgment on 16th March, 2021. Copy was signed on 29th March, 2021. On that date, the order passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No(s).3/2020 about exclusion of the period of limitation was in force.

In view of that, the averments made in the Pursis is accepted and the Office is directed to register the Appeal Against Order.

Appeal Against Order Stamp No.10100/2021 & Civil Application (CAA) St. No.10107/2021

The documents filed as per the Pursis Stamp No.04/2021 are taken on record. The copy of the same is supplied to the respondent. It pertains to the documents about the earlier proceedings in between the present appellants/plaintiffs, his erstwhile owner and the present respondent/defendant. To what extent, they can be considered in this appeal, it will be decided later on.

I have heard learned Senior Advocate Shri Khapre for the

appellants and learned Advocate Shri Quazi for the respondent.

It is true that in an appeal from an appeal preferred against the order of remand passed by the first Appellate Court, there is a need for this Court to decide whether the substantial question of law is involved or not? Learned Advocate Shri Quazi relied upon the judgment in the case of Narayanan Vs. Kumaran & Ors. in Appeal (Civil) Nos.820-821 of 1999.

Learned Advocate Shri Quazi seeks time to go through the documents filed along with the Pursis Stamp No.04/2021 today. It is true that as per the order passed by the first Appellate Court, the trial Court was directed to direct the defendant/present respondent to measure the plots. One month period was given. It is submitted that the respondent/defendant has already deposited the amount with the office of Deputy Superintendent of Land Records. The said Office will issue notice to both the parties to measure the lands.

It is true that there was earlier litigation and the present appellants want to rely upon dismissal of the suit filed by present respondent. The said suit was decreed initially and the first appeal was allowed and it was confirmed by this Court and even by the Hon'ble Supreme Court. In view of this controversy, this Court feels that till next date the order passed by the first Appellate Court directing the defendant to measure the lands needs to be stayed.

Hence, the order of the first Appellate Court is stayed till the next date. Parties to inform the trial Court accordingly. The appellants to remove remaining office objections.

Matter be kept on 12th October, 2021.

JUDGE