

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1651 OF 2011  
(Arising out of SLP(C)No.17087 OF 2010)

PRADEEP SHIVDAS PATIL

.....APPELLANT

VERSUS

BHASKAR TOTARAM PATIL(D) BY LRS.

.....RESPONDENTS

O R D E R

Issue notice.

Shri Nishant Ramakantrao Katneshwarkar, who has appeared on behalf of the respondents on caveat, accepts notice.

Learned counsel for the parties agree that the main matter may be disposed of at this stage itself.

Leave granted.

This appeal is directed against judgment dated 25.02.2010 of the learned Single Judge of Aurangabad Bench of the Bombay High Court whereby he allowed the second appeal filed by the respondents, reversed the concurrent judgments and decrees passed by the trial Court and the lower appellate Court and decreed the suit filed by Bhaskar Totaram Patil, who is now represented by his legal representatives, for recovery of possession of the southern half of the suit property.

One of the grounds on which the appellant has questioned the impugned judgment is that the learned Single Judge allowed the second appeal without framing any substantial question of law as

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per the mandate of Section 100 of the Code of Civil Procedure (CPC).

We have heard learned counsel for the parties and perused the record. It is not in dispute that the learned Single Judge allowed the second appeal without framing any substantial question of law. Therefore, the impugned judgment cannot be sustained.



UPON hearing counsel the Court made the following  
O R D E R

Issue notice.

Shri Nishant Ramakantrao Katneshwarkar, who has appeared on  
behalf of the respondents on caveat, accepts notice.

Leave granted.

The appeal is allowed in terms of the signed order.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master

( Signed order is placed on the file )