

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

SECOND APPEAL NO. 118 OF 2018

Babasaheb Dhondiba Kute

... Appellant

VERSUS

Radha Vithoba Barde

... Respondent

.....
Mr Vikram R. Dhorde, Advocate for the appellant
Mr R. D. Bhalerao, Advocate for respondent
.....

CORAM : A. M. DHAVAL, J.
DATE : 22ND OCTOBER, 2018.

PER COURT :-

1. Heard Mr Vikram R. Dhorde, learned counsel for the appellant.

2. Both the courts below have given findings in favour of the plaintiff but decree for specific performance has been refused only on the ground that the defendant is tribal and permission u/s 36A of the Maharashtra Land Revenue Code is necessary. Considering the arguments and the law involved, the following substantial question of law is framed.

“Whether both the learned lower courts erred in not granting a decree for specific performance subject to obtaining previous sanction from the Collector u/s 36A?

3. Considering the narrow controversy involved, the matter is fixed for final hearing on 22.11.2018. In the meanwhile, no coercive steps shall be taken as directed by the first appellate court.

4. Call for Record & Proceedings.

[A. M. DHAVAL]
JUDGE

Punde