

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5299 OF 2017
(Arising out of SLP(C) No.26206/2016)

ASHOK JAGATNARAYAN PANDE . . .APPELLANT(S)

VERSUS

KAILASH JAGATNARAYAN PANDE AND ORS. . .RESPONDENT(S)

O R D E R

1. Leave granted.
2. We have heard learned counsels for the parties.
3. There is no operative finding recorded either by the High Court or the learned Trial Court as to which of the two Wills i.e. dated 06.12.2008 and dated 31.12.2008 is valid.
4. In the absence of any determination of the aforesaid question, the decree passed by the learned Trial Court as well as the reversal of the said decree by the High Court cannot have our acceptance. The issue with regard to the respective rights of the parties remain undetermined.

5. In the above circumstances, according to us, the High Court should have remitted the matter to the learned Trial Court for the determination of the said question.

6. In view of the above, we set aside the order of the High Court and remand the matter to the Trial Court for *de novo* adjudication in light of what is indicated above.

7. The appeal consequently is allowed as indicated above.

....., J.
(RANJAN GOGOI)

....., J.
(NAVIN SINHA)

NEW DELHI
APRIL 17, 2017

ITEM NO.3

COURT NO.4

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 26206/2016

(Arising out of impugned final judgment and order dated 04/05/2016
in FA No. 418/2013 passed by the High Court of Bombay at Nagpur)

ASHOK JAGATNARAYAN PANDE

Petitioner(s)

VERSUS

KAILASH JAGATNARAYAN PANDE AND ORS.

Respondent(s)

(With interim relief and office report)

Date : 17/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Nitin Bhardwaj, Adv.

For Respondent(s) Mr. Nath Mohan Parfulla, Adv.
For Ms. Anagha S. Desai, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed
order.(Neetu Khajuria)
Court Master(Asha Soni)
Court Master

(Signed order is placed on the file.)