

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 412 of 2016

SHEWANTABAI

Appellant(s)

VERSUS

ARUN & ANR.

Respondent(s)

O R D E R

Being dissatisfied with the impugned judgment and order passed by the High Court of Bombay, Bench at Nagpur in Second Appeal No.450/2009 by which the High Court has dismissed the Second Appeal, the judgment and order passed by the First Appellate Court consequently dismissing the suit, the original plaintiff has preferred the present appeal.

We have heard the learned counsel appearing on behalf of the respective parties at length. At the outset, it is required to be noted that there are concurrent finding of fact recorded by the First Appellate Court as well as by the High Court on genuineness of the Will which was under challenge before the learned Trial Court. Merely because the testator executed the Will in favour of the neighbour, the genuineness of the Will cannot be doubted.

We are in complete agreement with the view taken by the High Court. At this stage learned counsel appearing on behalf of the appellant has submitted that the appellant, the widow of the deceased testator is an old lady and the entire agricultural

property as well as the house is bequeathed in favour of the neighbour and it will be difficult for her to maintain herself in this old age.

Learned counsel appearing on behalf of the respondents has stated that as such the original defendant No.2 offered before the High Court that the original defendant No.2 is ready and willing to allow the appellant to stay in the house and that he would look after her or in the alternative he is ready and willing to pay her Rs.3,000/- (Rupees three thousand) per month out of the income which he was deriving out of the agricultural property. However, it was the plaintiff-appellant herein who refused to accept the aforesaid offer.

Learned counsel for the appellant has stated at the Bar that the appellant is now ready and willing to accept the alternative offer of maintenance. However, it is requested to enhance the amount of maintenance.

Having heard learned counsel for the respective parties and in view of the facts and circumstances of the case, we are of the opinion that if the appellant is paid Rs.7,500/- (Rupees seven thousand five hundred) per month for maintenance, out of the income which the original defendant No.2 would derive out of the agricultural property, it would meet the ends of justice.

The present appeal stands disposed of in the above terms. The impugned order is hereby confirmed subject to above terms.

The original defendant No.2 is directed to pay Rs.7,500/- (Rupees seven thousand five hundred) per month to the appellant during her life time towards maintenance, out of the income which

the original defendant No.2 would derive out of the agricultural property. The arrears of maintenance payable from January, 2011 onwards to be paid to the appellant within a period of three months from today.

With these directions, the civil appeal stands disposed of.

.....J.
(M.R. SHAH)

.....J.
(A.S.BOPANNA)

Dated : 28.05.2019
New Delhi

ITEM NO.108

COURT NO.3

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 412/2016

SHEWANTABAI

Appellant(s)

VERSUS

ARUN & ANR.

Respondent(s)

Date : 28-05-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE A.S. BOPANNA
(VACATION BENCH)

For Appellant(s) Dr. Monika Gusain, AOR

For Respondent(s) Mr. Anshuman Singh, Adv.
Mr. Satyajit Desai, Adv.
Ms. Anagha S. Desai, AOR

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

Heard learned counsel for the parties.

The appeal is disposed of in terms of the signed
order.

Pending application shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER

(RAJINDER KAUR)
COURT MASTER

(Signed order is placed on the file.)