

Chandrakant Bhikamdas Bamb and Others

Vs

Baburao Bala Bahirat and Others

Radha Bhai Rajubai

Vs

Baburao Bala Bahirat and Others

Civil Appeal No. 1090-1091 (N) of 1980

(Syed M. Fazal Ali, D. A. Desai JJ)

08.05.1980

ORDER

1. Heard counsel. Special leave to appeal granted in both the matters.
2. The High Court of Bombay dismissed the appeals on the ground that the Paper-books containing copies of the relevant documents were not prepared as required by Rule 5, Chapter IX, of the High Court Appellate Side Rule, 1960. Mr. Ganpule who appears on behalf of the appellants says that soon after the High Court dismissed the appeals for want of prosecution, the appellants filed the Paper-books in the High Court and applied for setting aside of the order dismissing the appeals for want of prosecution. The High Court, however, declined to take the Paper-books on record and to hear the appeals on merits. We are of the opinion that it is in the interest of justice that the appeals should be heard on merits. The Paper-books have already been filed so that there will be no technical impediment in the High Court hearing the appeals on merits.
3. Accordingly, we set aside the order passed by the High Court and remand the appeals to it with a direction that it shall dispose of the appeals on merits after hearing both the sides. We direct that the appellants here shall pay a consolidated sum of Rs. 1000 to the respondents by way of costs of both the appeals before us. The costs may be deposited in the High Court.

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