

Kiranmal Zumerlal Borana Marawadi

Vs

Dnyanoba Bajirao Khot and Others

Civil Appeal No. 2612 of 1983

(D.A. Desai, A.N. Sen JJ)

07.03.1983

ORDER

1. Special Leave granted.

2. This appeal is directed against the decision of the High Court in First Appeal No. 536 of 1978 by which the appeal preferred by the present appellant against the judgment and order of the learned Civil Judge (Senior Division) in Special Jurisdiction Suit No. 1 of 1974 was dismissed in limine. The High Court dismissed the appeal by one word "Dismissed". As numerous points both of law and facts appear to have been raised in the appeal, which again were sought to be canvassed before us in fairness to the parties and to us some reasons ought to have appeared in the Judgment indication what appealed to the High Court to be in entire agreement with the learned trial judge. Let it be remembered that it was the first appeal against the decision of the trial court and therein the appellant can and has raised serious question of law and disputed decision on facts. We, therefore, think this is pre-eminently a fit case which ought to have been admitted and disposed of on merits. As we remit the matter to the High Court, we do not express any opinion on the contentions of the parties. Accordingly, we set aside the order of the High Court dismissing the appeal in limine and remit the case to the High Court to dispose it of on merits after hearing the parties. There shall be no order as to costs of the hearing in this Court.

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