

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.256 OF 2014

Krushnarao s/o Shioramji Shirpurkar

-vs-

Ashok s/o Nathmalji Rathi

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. C. Dharmadhikari, Advocate for appellant.
Shri A. Parchure, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 07, 2017

Heard.

Admit on the following substantial question of
law :

*“ When trial Court has held the suit for possession to
be barred by the law of limitation on the ground that
the plaintiff was never put in possession pursuant to
sale deed dated 10/05/1989, whether the Appellate
Court was justified in reversing said finding by
taking into consideration the aspect of defendant's
adverse possession though the same was not
pleaded ? ”*

Shri Parchure, learned counsel waives notice on
behalf of the respondent.

C.A.S. No.559 of 2014

By this application it is prayed that the execution of

decree for possession be stayed during pendency of the appeal. It is submitted that as the appeal has been admitted, possession of the appellant deserves to be protected.

The application is opposed by learned counsel for the respondent on the ground that the suit has been rightly decreed in his favour.

Considering the nature of decree that has been passed, the possession of the appellant shall remain protected during pendency of the appeal. However, appellant shall not create any third party rights in the suit property.

Civil application is disposed of.

JUDGE