

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

CIVIL APPLICATION (CAS) NO.720 OF 2017
IN
SECOND APPEAL NO.462 OF 2012

Shankar Kistayya Panghatiwar and ors.

-vs-

Vithoba Chintaman Nakhale and ors.

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

Court's or Judge's Orders.

Shri A. D. Sonak, Advocate for applicants/appellants.
Shri U. P. Deopujari, Advocate for respondent Nos.1
and 2.

CORAM : A.S.CHANDURKAR, J.
DATE : September 13, 2017

By this application it is prayed that the order dated 19/12/2014 be modified to the extent that the decree passed by the trial Court be stayed in respect of 2 hectares land from survey No.266 instead of 2 acres land as directed. It is submitted that as per the sale deed dated 05/08/2000 the applicant had purchased 2 hectares land from Chintaman and hence the decree as passed should operate for the entire land. Copy of the sale deed is filed on record along with affidavit of one Pandurang Nakhale. It is further submitted that an application has been moved before the trial Court for

correction of the decree.

The application is opposed by the respondents on the ground that the decree as passed is in respect of 2 acres land and therefore the appellants cannot seek higher relief. It is submitted that the applicant himself has not filed any affidavit to indicate his possession.

Prima facie considering the copy of registered sale deed dated 05/08/2000 along with affidavit of Shri Pandurang Nakhale in which it is stated that he is in cultivating possession on behalf of the appellant, the execution of decree to the extent of 2 hectares land from survey No.266 is stayed. This is without prejudice to the rights of the parties. Similarly the trial Court shall decide the proceedings for correction of the decree on its own merits without being influenced by this order. Needless to state that direction at (B) in the order dated 19/12/2014 shall continue to operate.

Civil application is disposed of.

JUDGE