

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (O) NO.1042 OF 2017
IN
MISC. CIVIL APPLICATION ST. NO.16277 OF 2017
IN
SECOND APPEAL ST. NO.7803 OF 2017
(REJ. SECOND APPEAL NO.686 OF 2017)

PRADEEP S/O WILLIAM SWAMI AND OTHERS
VS
SOU LEELABAI W/O SURESH SWAMI AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri H. Dangre, Advocate for the appellants.

CORAM : A.S. CHANDURKAR, J.
DATED : AUGUST 01, 2017.

Considering the reasons mentioned in the application,
the delay in filing restoration application stands condoned.

Civil application is allowed and disposed of.

MCAST NO.16277/2017.

Perused the contents of the application. It is submitted that the certified copy of judgment of the trial Court has now been filed. Other objections if any be removed within a period of ten days from today. On aforesaid condition, the order refusing registration is revoked and proceedings are restored to file.

Misc. Civil Application is allowed and disposed of.

SAST NO.7803/2017.

Issue notice on the following substantial questions of law:

(1) “Whether both the Courts have committed an error in casting the onus of proving the benami nature of the sale on the defendants?

(2) Whether both the Courts failed to apply the various tests laid down by the Hon'ble Supreme Court in *Vallimmal vs. Subramaniam & ors 2004(5) ALL MR (SC) 1041* for determination of the question whether the sale in favour of the plaintiff was a benami transaction?

Notice returnable on 4-9-2017.

Hamdast granted.

CAST NO.7804/2017.

Issue notice returnable on 4-9-2017.

Ad interim relief in terms of prayer clause (i).

Hamdast granted.

JUDGE