

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

CIVIL APPLICATION (CAS) NO.1296 OF 2017
IN
SECOND APPEAL NO.131 OF 2012

Tejram s/o Rajaram Chopde

..VS..

Gajanan s/o Rajaram Chopde

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

Court's or Judge's Order

Shri M.M. Agnihotri, Counsel for the applicant/appellant.
Shri M.R. Joharapurkar, Counsel for the respondent.

CORAM : V.M. DESHPANDE, J.

DATED : NOVEMBER 14, 2017.

1. This is an application under Order XXIII Rule 3 of the Code of Civil Procedure for drawing compromise decree.
2. The parties to the second appeal, who are real brothers, have mutually settled their dispute in respect of issue and matter involved in the present second appeal. Their terms of compromise in the application are at Clause-a to Clause-d of paragraph No.7.
3. Applicant/appellant Tejram Chopde and non-applicant/respondent Gajanan Chopde are personally present in the Court. They are respectively identified by their respective counsel Shri M.M. Agnihotri for the applicant/appellant and counsel Shri M.R. Joharapurkar for the non-

applicant/respondent.

4. The Court has also personally verified about their compromise and they submitted in affirmative.

5. In that view of the matter, the present application is allowed and the parties to this appeal are permitted to compromise their dispute.

6. The civil application is disposed of accordingly.

Second Appeal No.131 of 2012

1. Heard.

2. The present second appeal arises out of judgment and decree passed by learned 2nd Additional Judge, Small Causes Court and Joint Civil Judge Senior Division at Nagpur dated 6.7.2005 in Special Civil Suit No.885 of 2001 by which the suit filed by the respondent/plaintiff was dismissed together with judgment and decree passed by learned District Judge-4 at Nagpur dated 11.10.2011 in Regular Civil Appeal No.441 of 2005 by which the Lower Appellate Court allowed the appeal and declared that the respondent/plaintiff is a owner of the suit plot. The appellant/defendant was directed to hand over the vacant possession of the suit plot along with structure thereon within a period of three months from the date of order.

3. This second appeal was Admitted on 26.11.2014 on the following substantial questions of law:

“(1) Whether the plaintiff has proved the sale deed dated 6.7.1994 (Exhibit-75) to be a fraudulent and forged document that does not bear his signature?”

“(2) Whether the lower appellate Court was justified in reversing the findings recorded by the trial Court that said sale deed was not a forged document?”

4. During pendency of the second appeal, the parties to the present second appeal, who are real brothers, have amicably settled their dispute. They have filed a joint application bearing Civil Application No.1296 of 2017 for recording compromise. Both the appellant/defendant and the respondent/plaintiff are personally present in the Court. They are respectively identified by their respective counsel.

5. Today, Civil Application No.1296 of 2017 is allowed by this Court thereby permitting the parties to this second appeal to compromise their dispute.

6. Since the parties to the second appeal have settled their dispute and have already arrived at terms, which are at Clause-a to Clause-d of paragraph No.7 of the civil application, the second appeal is required to be disposed of. Since the parties to the second appeal have already settled their dispute, there is no need to this Court to answer the substantial questions of law either in affirmative or in negative.

7. The second appeal is, therefore, disposed of. The

decree be drawn contained in Clause-a to Clause-d of paragraph No.7 of the civil application.

8. The second is disposed of. However, there shall be no order as to costs.

JUDGE

!! BRW !!