

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

CIVIL APPLICATION (CAS) NO.1109 OF 2017
IN
SECOND APPEAL ST. NO. 18979 OF 2017

Tulsidas s/o Bhimji Patel, Nagpur

-vs-

Parwata wd/o Kundlikarao Choudhary 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. J. Thakkar, Advocate for applicant/appellant.
Shri R. S. Dhole, Advocate for respondent Nos.1 to 3.

CORAM : A.S.CHANDURKAR, J.
DATE : June 20, 2018

By this application the applicant seeks leave to file the appeal for challenging the judgment in R.C.A. No.584/2009 on the ground that the applicant has purchased portion of the suit property on 20/05/2005 and any adjudication in the suit would affect his right. In the application it is stated that before the trial Court an application for such amendment was moved by the plaintiff. That application has been rejected by the trial Court. Considering the title of the applicant in the suit property it is prayed that the application be allowed.

The application is opposed by learned counsel for the non-applicant Nos.1 to 3 on the ground that the applicant had purchased the property during pendency of the suit and hence the transaction is hit by *lis pendens*.

It is not in dispute that the applicant has purchased portion of the suit property after the suit was filed. The

decree that would be passed would bind the applicant. At the same time since the same decree is also under challenge in Second Appeal St. No.1284/2017 at the instance of the defendant, the present application is allowed. The applicant is granted leave to file the Second Appeal.

Civil Application is allowed and disposed of.

Civil Application (CAO) No.161 of 2018.

Since the application for bringing on record the legal heirs of respondent No.6 has been filed within time, the same is allowed. Legal heirs are permitted to be brought on record. Amendment be carried out within period of one week.

Civil Application is disposed of.

Civil Application St. No.18981 of 2017

Put up on 04/07/2018.

JUDGE