

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

SECOND APPEAL NO.779 OF 2017

(Shri Roshan s/o Chottu Shah and others Vs. Kabristhan Muslim Committee, Sindi
(Railway) through its President Shri Mohammad Yunus s/o Mohammad Ibrahim)

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

Court's or Judge's orders.

Shri C.V. Mahurkar, Advocate for Appellants.
Shri Abdul Subhan, Advocate for Respondent.

CORAM: ROHIT B. DEO, J.

DATE: 19th MARCH, 2019.

The concurrent finding that the respondent – plaintiff is in possession is assailed herein.

2] The learned counsel for the appellants submits, on instructions, that since the suit is predicated on possession and no declaration of ownership was sought, the appellants may be permitted to withdraw this appeal and institute comprehensive suit for possession in which all questions including the question of title can be looked into.

3] The learned counsel for the respondent – plaintiff states that the suit would be barred by limitation. Needless to say, the trial Court which will deal with the comprehensive suit shall look into every contention, in support of the suit claim and in rebuttal.

4] The appellant is permitted to withdraw the appeal with liberty as prayed.

5] The appeal is disposed of.

JUDGE

NSN