

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

CIVIL APPLICATION (CAO) 1675 OF 2019
IN
MISC. CIVIL APPLICATION STAMP 13543 OF 2019
IN
R.C. 387 OF 2019 (S.A.STAMP 5082 OF 2019)

Tryambak Shivram Jamav Vs. Vasant Jagganath Satav

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

Court's or Judge's orders.

Shri Tariq Mohd. Zaheer, Counsel for the applicant.

CORAM: ROHIT B. DEO, J.

DATE: 13/09/2019.

For the reasons stated in the application, Civil Application 1675 of 2019 is allowed.

2. The delay in filing restoration application is condoned.

MISC. CIVIL APPLICATION STAMP 13543 OF 2019

For the reasons stated in the application, the Second Appeal is restored to file.

2. Misc. Civil Application is allowed.

SECOND APPEAL OF 2019.

Issue notice to the respondent, returnable 11/10/2019 on the following substantial questions of law:-

“Whether in the teeth of the admission of the plaintiff that the suit property is ancestral property and in absence of challenge to the statement of the defendant in the evidence that he and his family members are the joint owners of the property, whether the Courts below could have returned a finding that the suit property was not ancestral property ?”

2] If the answer to substantial question of law : (i) is in favour of the defendant, could the suit for specific performance have been decreed in the absence of any averment in the suit plaint that the property was proposed to be sold for legal necessity or the benefit of the family or estate.

CIVIL APPLICATION (STAMP) 5083 OF 2019

Notice is issued on substantial questions of law.

2. In this view of the matter, the judgments impugned shall remain stayed till further orders.

JUDGE