

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

Civil Application (CAS) No.31/2018 in Second Appeal No.13/2018
Laldas Kapgate (D) Through LRs and others
Vs.
Shivram Kapgate (D) Through LRs and others

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

Court's or Judge's orders

Mr.N.A. Vyawahare, Advocate for appellants

CORAM : MANISH PITALE, J.

DATED : OCTOBER 11, 2019

Heard learned counsel for the appellants.

2. In addition to the substantial question of law framed by order dated 17/09/2018, the following substantial questions of law arise in this appeal for consideration.

- i. Whether the evidence tendered by the power of attorney holder of the plaintiff was sufficient in the eyes of law to prove his claims for the Courts below to have granted the decree?
- ii. Whether the decree passed in the present case would fall foul of the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 2017, particularly Section 88 thereof and in that light whether such decree is sustainable?

3. Having heard the learned counsel for rival parties on the aforesaid 3 substantial questions of law, this Court is of the opinion that the appeal requires consideration.

4. **ADMIT.**

5. Call for record and proceedings.

Civil Application (CAS) No.31/2018.

Notice was issued in this application on 17/09/2018 and ad-interim relief was granted to the effect that execution of the impugned judgment and order was stayed.

2. Having heard the learned counsel for rival parties, a case for grant of ad-interim relief is made out. Hence, ad-interim relief granted on 17/09/2018, is confirmed.

3. Application is disposed of.

JUDGE