

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

Civil Application (CAS) No.416/2021
IN
Second Appeal Stamp No.7392/2021

Rajendrasingh Tejendarsingh Khandpure Vs. Farzanabi Jabir Hussain & Ors.

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

Court's or Judge's Orders

Shri J.B. Gandhi, Advocate for the Applicant/Appellant.
Shri Nishant Patil, Advocate for Respondent No.1.

CORAM : S.M. MODAK, J.
DATE : 12th AUGUST, 2021.

The appellant has challenged the judgment passed by the first Appellate Court, Akola thereby remanding the matter to the trial Court for fresh adjudication after appointing cadastral surveyor. The appellant has filed the second appeal instead of an appeal from order. The appellant wants to withdraw the present appeal with liberty to file an appeal from order.

2. It is true that the order of remand passed under the provisions of Order XLI Rule 23 or Rule 23-A can be challenged by way of an appeal from an order under the provisions of Order XLIII Rule 1(u) of the Code of Civil Procedure, 1908.

3. In view of that, this appeal is disposed of as withdrawn with liberty to file an appeal from order. If the appellant files an application for condonation of delay, he can plead for prosecuting wrong proceedings.

4. All civil applications are disposed of.

JUDGE