

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

**Contempt Petition No. 279 of 2021**

**in**

**Second Appeal No. 56 of 2016**

**Dnyneshwar @ Nana S/o Shrawan Bhoyar**

**Versus**

**Ganba S/o Narayan Patil (Dead) through legal representatives Khushal  
S/o Ganba Patil**

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Shri A.K.Madane, Advocate for the applicant.

**CORAM : ANIL S. KILOR, J.**

**DATED : 15<sup>th</sup> DECEMBER, 2021.**

Heard learned counsel for the petitioner.

2. It is submitted that this Court in Second Appeal No. 56 of 2016 vide order dated 25<sup>th</sup> February, 2016 granted stay in terms of prayer clause (1) of the Civil Application No. 154 of 2016. The prayer clause (1) of the said application, read thus :

“(1) Stay the effect, operation and implementation of the judgment and decree passed by learned District Judge and A.S.J at Nagpur in Regular Civil Appeal No. 523 of 2011 decided on 19/12/2015 arising out of

judgment and decree dated 10/10/2011, passed by learned Civil Judge, Junior Division, Narkhed in Regular Civil Suit No. 43 of 2016.”

3. Thus, from the prayer clause (1) of the Civil Application, it is clear that stay was granted by this Court in relation to the effect, operation and implementation of the judgment and decree passed by learned District Judge and A.S.J. at Nagpur in Regular Civil Appeal No.523 of 2011 decided on 19<sup>th</sup> December, 2015.

4. The learned first Appellate Court in the aforesaid Regular Civil Appeal No. 523 of 20211 vide judgment and decree dated 19<sup>th</sup> December, 2015 directed the defendant to hand over the possession of suit field survey no.99 (New Survey No.205) area 1.61 H.R. situated at Umatha, Tah. Narkhed, Dist. Nagpur to the plaintiff.

5. Thus, after considering the above referred facts, it is clear that the stay granted by this Court was as to handing over of possession by the defendants to the plaintiff.

6. Learned counsel for the petitioner alleged that in violation of the above referred order of this

Court dated 25<sup>th</sup> February, 2016, the defendants have created third party interest in the suit property.

7. However, as observed herein above that there was no such directions or orders passed by this Court to restrain the defendants or directing the defendants not to create third party interest in the suit property. In absence, of any such direction or order of this Court against the defendants/respondents herein, it cannot be said that there is a wilful disobedience of any order or direction of this Court. Accordingly, I pass the following order.

### **ORDER**

Contempt petition is dismissed. No order as to costs.

**[ANIL S. KILOR, J.]**

SACHINDANAND  
K NAIR

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