

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

CIVIL APPLICATION (CAS) NO.631/2021
WITH
CIVIL APPLICATION (CAS) NO.616/2019 IN
SECOND APPEAL NO.320/2019

Vijaysingh s/o Jagatnarayansingh Chithore (dead) through LR's Vijaya Vijaysingh Chithore
(Dead), through LR's Sandip Vijaysingh Chithore and others
Vs.
Gajanan Baliram Lilhare.

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

Court's or Judge's Orders

Shri U.K. Bisen, Advocate for appellants.

CORAM : S.M. MODAK, J.
DATE : OCTOBER 12, 2021.

Heard learned Advocate for the appellants. No one
is present on behalf of respondent.

2. The appellant is the original plaintiff. He was declared owner of the suit property and defendant was directed to hand over the possession as per the judgment dated 26/09/2008 passed by the Trial Court. This judgment was set aside by the First Appellate Court as per the judgment dated 14/03/2019. In a result, suit stood dismissed. It is challenged by the appellant by way of present second appeal.

3. In Civil Application No.616/2019, there is a prayer to stay the execution of impugned judgment. There is also a prayer for injuncting the respondent from entering into the suit land. The respondent has filed reply to it thereby opposing the prayer and relied upon the observations of the Courts below.

2

4. While hearing that application, learned Advocate Shri Khushalani for the respondent has made a statement that the respondent will not create third party interest. It was recorded in paragraph no.2 of the order dated 07/09/2021. His statement was conditional. That is to say, there was no prayer for injuncting the respondent from creating third party interest.

5. After that the appellant has filed Civil Application No.631/2021. There also, there is a prayer for staying the execution of impugned judgment as well as two orders of temporary injunction. One is restraining the respondent from entering into the suit land and mutating the suit land and second is for injuncting the respondent from creating third party interest.

6. Learned Advocate for the appellants submitted that he is not pressing Civil Application No.616/2019 and also not pressing prayers (i) and (ii) of Civil Application No.631/2021. The prayer (iii) can be considered. Hence interim relief is granted in terms of prayer clause (iii) of Civil Application No.631/2021 during disposal of this appeal. This is granted on the basis of statement made by learned Advocate Shri Khushalani on 07/09/2021. In view of that both civil applications are disposed of.

JUDGE