

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

CIVIL APPLICATION (CAS) NO.692/2021
IN
SECOND APPEAL NO.534/2018

Santosh s/o Ghanshyam Sagare and another
Vs.

Suresh s/o Shivilalji Suchak (dead) through LR's Smt. Prafulla wd/o Suresh Suchak and others.

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

Court's or Judge's Orders

Smt Vijaya P. Thakre, Advocate for appellants.
Shri. M.R. Joharpurkar, Advocate for respondents.

CORAM : S.M. MODAK, J.
DATE : OCTOBER 26, 2021.

Heard both the sides. Read the order dated 02/09/2021. The present appellants/defendants are in possession of suit premises. There is concurrent finding against him and there is a decree for possession. So when the order dated 02/09/2021 was passed, it was certainly in the mind of the Court to direct the appellants to comply with the directions. However, wrongly at certain places, the word 'respondents' is mentioned. Certainly it is a mistake. 'Respondents' are consenting for correction. Hence, the direction.

- i) In paragraph no.6 in line no.10 instead of the word 'respondents' the word 'appellants' be added.
- ii) In direction Nos. F, H and I instead of the word 'respondents' the words 'appellants' be added.

The Civil Application is disposed of.

CIVIL APPLICATION NO.693/2021

As directed by this Court on 02/09/2021, the appellants have to deposit the arrears as well as the present amount. So according to the appellants, the arrears will roughly come to Rs.2,00,000/-. Now, they want to deposit Rs.5000/- per month. It is strongly opposed on behalf of the respondents. Respondents want to file reply. Time is granted.

The appellants are enjoying the suit premises since long. Their contention about becoming owner as beneficiary of the will has been rejected by two Courts below. It is true that first appeal against another suit filed by the appellant is pending before the Chandrapur Court. Now, it is fixed for argument on 30/10/2021.

This Court does not want to express any opinion about request to grant installment. But at the most, it can be said that the appellants must come forward with a proposal to deposit substantial amount from the arrears and then they may request for granting installment. This observation is made without prejudice to the rights of the respondents.

The matter be kept on **08/12/2021**.

JUDGE

R.S. Sahare