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

**CIVIL APPLICATION (CAS) No.922 OF 2019**

**IN**

**SECOND APPEAL No.475 of 2012**

Siddhagopal Shivbalak Sharma and another

Vs.

Sau. Nalini Madhukarrao Komawar and others.

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

Court's or Judge's Orders

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Shri S.O. Ahmed, Advocate for the appellants  
Shri S.K. Bhoyar, Advocate for respondent No.1

**CORAM : S.M. MODAK, J.**

**DATE : SEPTEMBER 22, 2021.**

Heard both the learned Advocates.

2. This is respondent No.1/plaintiff's application for vacation of stay. It is true that this Court while admitting the appeal on 14/10 2014 was pleased to grant *ad-interim* stay during the pendency of the appeal. This Court has also framed two substantial questions of law.

3. Grievance of respondent No.1 is that there are a concurrent findings by both the Courts below and hence the stay is required to be vacated.

4. The present plaintiff is a purchaser of the suit property and its vendor is one Ramgopal Sharma. According to the plaintiff, his vendor has sold the property to her on the basis of partition in between vendor Ramgopal Sharma and present defendant Nos.1 and 2. The plaintiff comes with the

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grievance that she was put in possession of the suit property and she was dispossessed during the pendency of the suit. The contesting defendants pleaded that Ramgopal Sharma vendor of the plaintiff is not having right to sale the suit property when partition suit was pending. The defendants could not prove that issue and it was observed that the bar under Section 52 of the Transfer of Property Act does not come in the way of Ramgopal Sharma to sell the property to plaintiff. Other issues were answered in favour of the plaintiff.

5. The first appeal filed by defendant Nos.1 and 2 was dismissed and findings were confirmed. That is why the present respondent No.1 is saying that the stay be vacated.

6. Learned Advocate Shri S.O. Ahmad submitted that the appellants want to engage Senior Advocate Shri Manohar and they are ready to argue the matter.

7. Instead of deciding the application on merits, there is an oral prayer on behalf of respondent no.1 to hear this matter at an early stage. In view of the fact that the respondent No.1 is a senior citizen matter be fixed for final hearing. In view of the above direction, the application is disposed of.

8. The matter be kept on **14/10/2021**.

**JUDGE**