

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

Civil Application [CAS] No.35 of 2016
in
Second Appeal No.13 of 2016

Dr. Sanjay Laxmanrao Junghare

vs.

Ravindra Kashinath Benkar & others

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

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Court's or Judge's Orders

*Mrs. S.V. Sirpurkar, Advocate for the Applicant/Appellant.
Shri S.C. Bhalelrao, Advocate for Respondent Nos.1 to 5.
Mrs. Mayuri Deshmukh, A.G.P. for Respondent Nos.6 & 7.*

CORAM : S.M. MODAK, J.
DATE : 5th AUGUST, 2021.

Heard the learned Advocates for the parties.

02] The change report filed by the appellant was rejected by the learned Assistant Charity Commissioner and confirmed by the learned Joint Charity Commissioner and by the District Court also. Initially, the order of the District Court was challenged by way of writ petition. Subsequently, it is converted into second appeal.

03] There is a prayer for continuing of the interim order made before the writ court on 26/08/2015. The writ petition was disposed of with liberty to file a second appeal. The writ court was not pleased to continue the interim order, as the appellant was not successful before all the Court.

04] The appellant seeks stay to the execution of the decree challenged. As such, there is no executable decree, as the change report was not sanctioned through out. On one hand, the appellant claims to be

the allottee of the land from Gram Panchayat, on which he has constructed a community hall, whereas, on the other hand, the respondents claim to be the members of the society thereby objecting for construction of a community hall on a land, which was reserved as a public utility land in the layout. According to them, the Gram Panchayat is not having any authority to allot the land. Whereas, according to the appellant, the land was allotted by the Gram Panchayat prior to sanction of the layout.

05] The change report was submitted in order to enter the land and the community hall constructed in the Registrar of Properties. As said above, it was rejected.

06] In the last more than five years, the appellant is using the community hall and the respondents are aware of that. I do not think it proper to simply reject the stay application. It is observed that both the parties will maintain the *status quo* and the respondents will not obstruct the use of community hall by the appellant.

07] In view of the above observations, the application is disposed of.

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There is a request to fix up the matter for final hearing on behalf of the respondents. The appellant to file private paper-book within four weeks punctually.

The matter be kept after four weeks for fixing the date of final hearing.

JUDGE