

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

CIVIL APPLICATION [CAS] NO. 92 OF 2022

IN

SECOND APPEAL [S.A.] NO.450 OF 2016

[Kunda Pramod Ukey and others .vs. Shrihari s/o Vishwanath Bhagat and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.V. Gaikwad, Advocate for appellants,
Shri N.B. Kalwaghe, Advocate for respondents.

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Coram : Smt. M.S. Jawalkar, J.

Reserved on : 22nd February, 2022.

Pronounced on : 24th February, 2022.

Heard the learned counsel for the parties.

2. The present joint application is filed under Order XXIII, Rule 3 of the Code of Civil Procedure for passing the decree in terms of compromise arise between the parties. During the pendency of this Second Appeal, the parties arrived at compromise and following properties, as mentioned in para 3 of the application, are involved in the suit, which are subject matter of the present appeal also, as follows :

A. Field at Mouza Borkhedi P.H. No.74, Kh.No. 178/2, Class 2, Record No.147, area 0.84 H.R., Tah. Hingna, Dist. Nagpur.

- B. Field at Mouza Bhivkund (Riti) P.H. No.60, Kh.No.94, Class 2, Record No.147, area 2.51 H.R., Tah. Hingna, Dist. Nagpur.
- C. Fields at Mouza Wanadongri, P.H. No.46, Kh.No. 323/3 (in judgment dated 31.08.2009, it is wrongly mentioned as Kh.No. 323/2), Class 1, Record No.215, area 1.85 H.R., Tah. Hingna, Dist. Nagpur.
- D. Mouza Digdoha, P.H. No.6, Gat No./S.N. 84-85/2, area 0.65 H.R., Tah. Hingna, Dist. Nagpur.

(hereinafter the suit properties are referred to as “suit property No. A, B, C and D respectively).

3. The parties are arrived at amicable settlement on the terms, the details of which are mentioned in para 4 of the application.

4. All the parties are present in person before the Court. They also filed individual affidavit along with their identity proof i.e. Adhar Card. They also identified by their respective counsel. I have verified the facts and contents of terms of compromise from the parties and I am satisfied that the terms of compromise are in the interest of parties and there is no illegality in the said terms. It is also confirmed from the parties that

the said terms arrived at voluntarily without any pressure. In view thereof, application needs to be allowed and I proceed to pass the following order :

ORDER

- (i) The Application is allowed.
- (ii) The judgment and decree dated 31.08.2009 passed by the learned 2nd Joint Civil Judge, Junior Division, Nagpur in R.C.S. No.370/2006 as well as the judgment and decree dated 05.07.2016 passed by the learned District Judge-7, Nagpur in R.C.A. No. 101/2010 are hereby set aside and the same is modified in the terms settled between the parties and as mentioned in para 4 of the application.
- (iii) Decree of compromise on the terms mutually agreed between the parties as mentioned in para 4 of the application, be drawn accordingly.
- (iv) There shall be no order as to costs.
- (v) Second Appeal stands disposed of accordingly.

[Smt. M.S. Jawalkar, J.]

Gulande