

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

CIVIL APPLICATION (F) NO.395 OF 2022

IN

FIRST APPEAL NO.415 OF 2006

[Nitin Vijay Shere (Dead) .Vrs. The State of Maharashtra and Ors.]

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

Court's or Judge's order

Shri. I. M. Ghongade, Advocate for Applicant
Shri. A. M. Kadukar, AGP for the Respondent Nos.1 to 3.

CORAM : **SMT. ANUJA PRABHUDESSAI, J.**

DATE : **22nd FEBRUARY, 2022.**

By order dated 16.02.2022, with consent, Ms. A. S. Athalye, Advocate was appointed as Commissioner to record additional evidence of the Appellant/Applicant to prove the comparability of the sale-deed dated 09.03.1995 (Exhibit-X).

2. Shri. I. M. Ghongade, learned Counsel for Applicant states that after filing of affidavit on 17.02.2022, the minor son of Applicant No.1(a) has expired. He submits that the Applicant No.1(a) is suffering from health issues and is not able to travel to Nagpur for recording his additional evidence. He therefore prays that the Reference Court be directed to record additional evidence of the Applicant No.1(a). The Applicant has placed on record copy of the Medical Certificate.

3. In view of the reasons stated in Para Nos.5 and 6 of the application, the order dated 16.02.2022 stands modified. Learned Advocate Ms. A. S. Athalye, who was appointed as Commissioner to record additional evidence of the Applicant, stands discharged. In terms of Rule 28 of Order XLI of the Civil Procedure Code, 1908, the Civil Judge Senior Division, Darwha is directed to record additional evidence of the Applicant

No.1(a) to prove the comparability of the sale-deed dated 09.03.1995 (Exhibit-X).

4. The Applicant has already filed the affidavit before the Commissioner. The said affidavit alongwith the Records and Proceedings be forwarded to the Civil Judge Senior Division, Darwha. Parties to appear before learned Civil Judge Senior Division, Darwha on 07.03.2022.

5. Shri. A. M. Kadukar, learned AGP to communicate this order to the AGP, who was representing the Acquiring body before the Reference Court.

6. Learned Judge to forward the records alongwith the additional evidence within a period of eight weeks from the date of receipt of the Records and Proceedings.

JUDGE

TAMBE

ASHISH
ASHOKRAO
TAMBE

Digitally signed by
ASHISH
ASHOKRAO
TAMBE
Date: 2022.02.23
18:42:25 +0530