

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

CIVIL APPLICATION (CAS) NO. 618/2022
IN
SECOND APPEAL NO.226/2021

Ashru S/o Ganpat Late
Vs.
Samindrabai Wd/o Ambadas Late 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 P.B. Patil, Advocate for appellant/applicant
Shri A.S. Manohar, Advocate for respondent No. 3

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 15/06/2022

Heard the learned Counsel for appellant and respondent No.3.

2. As appeal is yet to be admitted, permission is granted to raise additional grounds.
3. The appellant to carry out amendment forthwith.
4. The application is disposed of.

SECOND APPEAL NO. 226/2021

Issue notice to the respondents on following substantial question of law, returnable on 18/07/2022.

1. Whether the learned Lower Appellate Court committed a manifest error of law in ignoring the principles of law laid down by the Hon'ble Apex Court while reversing the judgment of the trial Court by the first appellate Court as laid down in the

judgment reported in **AIR 2001 SC 965**
[*Santosh Hazari vs. Purushottam Tiwari*
(Dead) through Lrs]?

2. Whether court below has erred in not considering that the suit filed by plaintiffs/respondents was barred by limitation?

3. Whether, in view of section 3 of Limitation Act R/w Order 41 Rule 31 & Rule 33 of C.P.C. the appellate court has erred in not dealing with the point of limitation, rendering the impugned judgment unsustainable and bad in law?

4. Whether the lower appellant court has erred in law that the mutation entries showing the long standing possession of appellant/defendant on suit land has presumptive value under section 157 of M.L.R code and since the presumption was not rebutted by the plaintiff/respondents the suit ought to have been dismissed.

Till returnable date parties to maintain status quo in respect of possession of the suit property.

(SMT. M.S. JAWALKAR, J.)

Jayashree.....