

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

SECOND APPEAL NO. 286 OF 2022

Nandu s/o Ramchandra Chikhale and others

Vs.

Devidas Ramraoji Chopade (Dead), Sau Pramila Devidas Chopade (Dead) through
their legal heirs Yogendra Devidasrao Chopade and others

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

Court's or Judge's orders

Mrs. S. W. Deshpande, Advocate for appellants.

CORAM : AVINASH G. GHAROTE, J.

DATE : 05/09/2022

Civil Application (CAS) No.900/2022

1. Civil Application No.900 of 2022 seeks the transposition of the legal heirs of appellant no.7 as respondent no.4 to the appeal, as though their names are entered as appellant, they are not willing to proceed with the appeal. The application also seeks to bring on record one Varsha d/o Annaji Chikhale as the legal heir of the appellant no.11. Though Mr. Kothale, learned counsel and Mr. Dapurkar, learned counsel appears for respondent no. 3/caveator, both are absent. Mrs. Deshpande, learned counsel for the appellants submits that the copy of the application as well as appeal has been served upon Mr. Kothale, learned counsel on 3.8.2022, who appears on caveat for the respondent no.3. Since notices are not issued, the Civil Application No.900 of 2022 is hereby granted.

2. The appellant to carry out the amendment today itself.

Civil Application (CAS) No.823/2022

1. Civil Application No.823 of 2022 seeks to delete the name of appellant no. 5 Shalikram Motiramji Chikhale and replace the same by Vaibhav Rajaram Chavhan R/o Morshi, Dist. Amravati on the ground that the said Vaibhav Chavhan has purchased the share of appellant no.5 Shalikram Chikhale.

2. The application is allowed at the risk and consequences of the appellants. The replacement be carried out during the course of the day.

SECOND APPEAL NO. 286 OF 2022

1. Since none on behalf of the caveator of respondent no. 3 is appearing, in order to afford an opportunity, list the matter on 13.9.2022.

2. Mrs. Deshpande, learned counsel for the appellants at the out set submits that in the suit filed before the learned trial Court, the appellant, who is original plaintiff, has not claimed any new right of way, but has merely claimed removal of obstruction on the existing way. An application under Section 5 of the Mamlatdars' Courts Act is also said to have been filed on 3.1.2012. The fate of the said application, is not

disclosed. The learned counsel to clarify what is the fate of the application under Section 5 of the Mamlatdars' Courts Act and under which provision of the Maharashtra Land Revenue Code the Tahsildar has a right to direct removal of obstruction from the way.

JUDGE

Sarkate