

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

CIVIL APPLICATION (CAS) NO. 324 OF 2023
IN
SECOND APPEAL NO. 105 OF 2012 (D)

SHRI NAVNATH KISANJI GAJBHIYE

...**VERSUS**...

GANGADHAR S/O. BHAGWAN GEDAM

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

Court's or Judge's order

Shri U. A. Gosavi, Advocate for appellant/applicant.
Shri S.W.Deshpande, Advocate for respondent.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 24th MARCH, 2023

The applicant herein is the appellant in Second Appeal No. 105 of 2012 (Decided), was directed to deposit the occupation charges vide orders dated 05/04/2013 and 03/09/2013 passed by this Court. The details of amount so deposited is given in the present application.

2. It is the contention of the appellant/applicant that he may be permitted to withdraw the amount as the matter is remitted back to follow the procedure under Order XLI, Rule 25 of the Code of Civil Procedure.

3. Learned counsel for the respondent has filed reply and submitted that the matter is remanded back to learned District Court to decide the same. In the circumstances, there is no question of withdrawal of amount. The said matter is yet to be finally decided and therefore, the amount so deposited may not be allowed

to withdraw by appellant. At the most, the said amount can be transferred to learned District Court.

4. I also feel it proper to transfer the said amount deposited in this Court to learned District Court as it was directed to be deposited as occupation charges. If the amount is transferred, the appellant can file proper application before learned District Court, Nagpur for withdrawal of the said amount.

5. Accordingly, Registry and Nazir are hereby directed to transfer the amount deposited in Second Appeal No. 105/2012 (Decided) to learned District Court, Nagpur in Reg. Civil Appeal No. 169/2010.

6. The application stands disposed of.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar