



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

CIVIL APPLICATION (CAS) NO. 1433/2023

IN

SECOND APPEAL STAMP NO. 21044/2023

Geetabai Prakash Damare and another

Vs.

Chandrabhagabai Govindrao Indale (Dead) through L.Rs. Prakash Bhaurao Damare and another

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

Court's or Judge's orders

Shri V.R. Deshpande, Advocate for appellants

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

DATE : 30/10/2023

Present application is filed for condonation of delay in filing second appeal. There is delay of one day in filing second appeal. The delay is caused due to difficulties faced by the Counsel in E-filing. As such, there is no intentional or deliberate delay. Accordingly, application is allowed.

2. Delay in filing second appeal is hereby condoned.

3. Registry is directed to register second appeal.

4. Application stands disposed of.

SECOND APPEAL STAMP NO. 21044/2023

After registration of the second appeal, issue notice to the respondents, returnable within three weeks on following substantial question of law :

“(i) Whether the learned subordinate Courts below erred in dismissing the suit with regard to the property bearing Survey No. 82/2, Gat No. 13/2 especially when the respondent No.1 who is the vendor in sale deed dated 06/05/2003 has herself categorically admitted the entire case of the appellants and has pleaded that the said sale deed is sham and bogus ?

(ii) Whether the learned subordinate Courts erred in relying on the mutation entry to decide the question of title, more particularly when there is no valid document of relinquishment or transfer placed on record by the respondent No.2 ?

(iii) Whether the learned subordinate Courts erred in appreciating the concept of relinquishment in as much as the learned Courts failed to take note that relinquishment of share of interest in an immovable property cannot be termed as a transfer in favour of any particular person, but merely implicates that the relinquished share shall devolve upon all the other members of the joint family ?”

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