



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

CIVIL APPLICATION (CAS) NO. 60 OF 2024
AND

SECOND APPEAL NO. 35 OF 2010

Smt Prabhabei W/o. Jainarayanji Jaiswal

.VS.

Manojkumar Harikisan Jaiswal

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

Mr K. B. Zinjarde, Advocate for the appellant

Ms Radhika Bajaj, Adv. h/f. Mr A. S. Jaiswal, Advocate for respondent

CORAM : G.A. SANAP, J.

DATE : JANUARY 24, 2024.

Heard learned Advocate for the parties.

2. The appellant/original plaintiff has filed Civil Application No. 60 of 2024 seeking leave to withdraw the second appeal with liberty to file fresh suit to establish her right over the property. It is seen that this application is filed under Order XXIII, Rule (1) Sub-Rule (1) and (3) read with Section 141 of the Civil Procedure Code. It is seen that the grounds contemplated under Order XXIII Rule (1) Sub Rule (3) have not been made out for granting the liberty to file fresh suit on the same cause of action. However, leave to withdraw the

appeal can be granted subject to liberty to the appellant/plaintiff to file a suit for redressal of her grievance in accordance with law and more particularly, the law of limitation.

3. In view of this, the Civil Application No. 60 of 2024 is **allowed**.

4. The appellant is allowed to withdraw the appeal with liberty to file a suit for redressal of her grievance in accordance with law & particularly, the law of limitation.

5. The second appeal stands **disposed of**, as withdrawn.

6. In view of withdrawal of the second appeal, the Civil Application No. 210 of 2020 also stands disposed of.

(G. A. SANAP, J.)

Namrata