



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

**Civil Application (CAS) No. 305 of 2024**

**in**

**Second Appeal No. 314 of 2009**

[Mrs. Padmashri Col. Dharansingh Vohra, (deceased) through LRs Mrs. Veena Vohra Wd/o Col  
Darshansingh Vohra and ors. **..vs..** Mrs. Geeta Shyam Laddad and ors.]

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

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Mr. P. V. Vaidya, Advocate for the applicants/appellant  
Mr. S. S. Joshi, Advocate for respondent nos. 6 to 8

**CORAM : ANIL L. PANSARE J.**

**DATED : 18-04-2024**

Heard for some time.

The predecessor of appellants on 8-11-1984 sold the property under question to respondent no. 1, who in turn, on 10-6-1985 sold it to respondent nos. 2 to 5. These respondents i.e. respondent nos. 2 to 5 then sold the suit property to respondent nos. 6 to 8 vide sale deed dated 10-9-1991.

The present appeal has been dismissed against respondent nos. 1, 2 and 4 on 25-2-2010 and prior thereto, it has been dismissed against respondent nos. 3 and 5 vide order dated 5-11-2009.

The substantial question of law formulated by this Court reads as under.

Whether an agreement executed on the same day stating therein as to which property is not sold by plaintiff to defendant could itself be treated as a Deed of Correction ?

By the agreement executed on the same date, subsequent agreement was executed, which according to appellants should be treated as deed of correction, by which certain portion of the property sold to the respondent no. 1 has been omitted. If this question is to be answered in the affirmative, the effect will be the subject matter of sale deed executed between the predecessor in title of the appellants and the respondents will be reduced/deleted to the extent of what has been mentioned in the subsequent agreement. This will have direct impact upon the sale deed executed by and between the predecessor in title of appellants and respondent no. 1. This relief cannot be granted without giving opportunity to the respondent no. 1.

Further, the corrections made in the first sale deed will have consequential effects on the subsequent sale deeds i.e. sale deed executed by and between respondent no. 1 on one side and respondent nos. 2 to 5 on other side, so also, respondent nos. 2 to 5 on one side and respondent nos. 6 to 8 on other side. Even this relief cannot be granted without giving opportunity to the other respondents i.e. respondent nos. 2 to 5. The appeal, having been dismissed against these respondents, the relief sought by the appellants cannot be granted.

Learned counsel for the appellants submits that he has filed application to recall the orders of the Registrars by which the appeal came to be dismissed against these respondents. However, there occurred delay of around 5068 days in filing the application.

Learned counsel for respondent nos. 6 to 8 has opposed the application by filing reply stating therein that the appellants were aware of such status which was not only reflected in the cause list but on the official website of this Court as well. He further submits that the file was handled by the learned counsel appearing for the appellants when the cause title was amended while bringing on record the legal representatives of the deceased appellant. He further submits that the matter has been heard finally by this Court and upon query made by the Court as to how the relief could be granted against the respondents against whom appeal has been dismissed, the appellants realized the mistake and filed present application. He submits that there is absolutely no justification to file the application belatedly.

I do find substance in the aforesaid submissions. The record speaks that the appeal has been dismissed against these respondents and the record has been handled by learned counsel for the appellants. In any case, one cannot really take the defence of ignorance of this fact particularly when the cause list of every date indicated the status of dismissal of appeal against the respondents. There is no substance in the application. The application seeking condonation of delay is rejected.

**Civil Application (CAS) No. 292 of 2024**

This application is for framing additional substantial question.

Stand over to 30-4-2024

**Second Appeal No. 314 of 2009**

Stand over to 30-4-2024 for hearing.

**(Anil L. Pansare, J.)**

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