



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

CIVIL APPLICATION (CAS) NO. 1359 OF 2023
IN
SECOND APPEAL NO. 275 OF 2022

Bhagiratha w/o Santoshji Gaurkar and others
Vs
Rupchand s/o Pundalik Kadu and others.

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

Court's or Judge's Order

Mr. S.A. Dutonde, counsel for appellants.

Mr. Sunil Singh S. Chauhan, counsel for respondent Nos. 1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/12/2024.

1. By this application, the respondents are seeking addition of the parties i.e. subsequent purchaser as a party respondent in the Second Appeal.

2. It is submitted that above second appeal is admitted and injunction is granted against the respondents by order dated 10/08/2022. The respondents are restrained from changing the nature of suit property and also restrained from creating any third party interest in the suit property. The respondents are suffering for day-to-day loss in their business, as they are creating any third party interest in the suit property.

3. It is further stated that respondent no.1 and 2 have executed registered sale-deed of plot Nos. 148 and 149 in favour of the Rajesh Manohar Kalmegh dated 16/06/2022.

The mutation entries are also effected to that effect, and the actual physical possession of the said property is also handed over to the subsequent purchaser. Therefore, the subsequent purchasers are the necessary parties to the present appeal. In their absence, there would be multiplication of the proceedings. In view of that, the appellant be directed to add them as a party respondent in the second appeal.

4. Learned counsel for the respondent strongly opposed the said application on the ground that they are not at all necessary parties.

5. Admittedly the properties are already alienated in favour of the third persons, suit is for partition and separate possession. The subsequent purchasers would be the necessary parties to avoid the multiplication of the proceedings. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] Civil application is allowed.
- b] The appellant is directed to add the purchaser as a party respondents.
- c] The necessary amendment be carried out within a stipulated period of 14 days.

6. Learned counsel Mr. R.R.Agrawal waives services for newly added respondents.

7. Learned counsel for the appellant shall file on record the First Appellate Courts paper-book and also supply the copy to the other side.

8. The appeal be listed for final disposal on 08/01/2025.

[URMILA JOSHI-PHALKE, J.]