



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

**SECOND APPEAL NO.224 OF 2024**

(Deepak s/o Shankarrao Dhanwatay Vs. Shobha Prakash Dhanwatay and ors.)

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

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Mr. A.S. Dhore, Advocate for the appellant.  
Mr. A.C. Dharmadhikari, Advocate for respondent Nos.1 and 2.

**CORAM:- URMILA JOSHI-PHALKE, J.**  
**DATED :- DECEMBER 12, 2024.**

Heard.

2. Mr. Dharmadhikari, learned Counsel pointed out that the appeal is not maintainable and submitted that the original plaintiff has filed suit for declaration and injunction against the present appellant as well as respondent Nos.1 and 2 – Shobha and Priyanka respectively.

3. The said suit proceeded *ex-parte* against the present appellant and finally suit was dismissed and accordingly decree was drawn.

4. This appellant though filed an application under Order IX Rule 13 of Code of Civil Procedure for setting aside the *ex-parte* order; however, subsequently it was withdrawn. There was no first appeal by the present appellant subsequent and the withdrawn itself to be as a waiver by the present appellant, therefore, the appeal is not maintainable.

5. Considering the submissions made by the learned Counsel, the appellant to satisfy this Court about the maintainability of the appeal.

6. Place the matter on 15/01/2025.

**(URMILA JOSHI-PHALKE, J.)**

*\*Divya*