



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

CIVIL APPLICATION (CAS) NO. 1015 OF 2024 IN
SECOND APPEAL STAMP NO. 18612 OF 2024

Vasant s/o Madhav Jiwtode Vs Sou Rupali w/o Pravin Jiwtode and another.

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

Court's or Judge's Order

Mr. O.R. Deshpande, counsel appellant.

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

1. By preferring this appeal, the appellant original plaintiff has challenged the judgment and decree passed in Regular Civil Appeal No. 43/2019, the following substantial questions of law involved in the appeal;

- a] Whether the District Judge erroneously considered that the partition deed dated 28/01/2008 is illegal and not binding on the plaintiff and by contradicting its own finding, and negated that the plaintiff is entitled for declaration as prayed by him?
- b] Whether the judgment of the trial Court as well as the First Appellate Court is erroneous as contradicted its own finding on the relevant points, especially on a partition-deed dated 28/01/2008?

2. Issue notices to the respondents on the above substantial questions of law.

3. Learned counsel for the appellant submitted that after passing of the judgment, the respondents already preferred an execution petition, and a possession warrant is already issued. If the present appellant loses the possession, there would be a multiplicity of the proceedings. In view of that, the execution, i.e. possession warrant issued by the executing court, is stayed.

4. Perused the judgment passed by the First Appellate Court as well as the trial court and submission made by the learned counsel for the appellant, the execution and operation of the judgment and decree be stayed till the appearance of the respondent.

5. Stand over on 07/01/2025.

[URMILA JOSHI-PHALKE, J.]