



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

Writ Petition No.4019 of 2023

Shishir s/o Prabhakar Rao Bhongade

vs.

Kiran s/o Namdeorao Mahale and another

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. Sawan Alaspurkar, Advocate for the Petitioner.
Mr. H.P. Lingayat, Advocate for Respondent No.1.
Mr. H.I. Kothari, Advocate for Respondent No.2.*

CORAM : ROHIT W. JOSHI, J.

DATE : 18th NOVEMBER, 2025.

Heard.

02. By the present petition, the petitioner, who is the original plaintiff, challenges the order dated 08/02/2023 passed by the learned 4th Jt. Civil Judge Senior Division, Nagpur on application at Exh.45 in S.C.S. No.280/2018. By the said order, the learned Trial Court has allowed the application filed by respondent No.2 for addition of party. The suit is filed against the sole defendant for seeking cancellation of sale-deed dated 25/05/2015 and subsequent correction-deed dated 10/03/2016 executed by the plaintiff in favour of the defendant.

03. The contention of the proposed defendant/respondent No.2 is that shortly after execution of sale-deed 25/05/2015, the suit property was mortgaged by defendant No.1 with it vide registered mortgage-deed dated 17/06/2015. It is contended that defendant No.1 was irregular in repayment of loan and thereafter in view of mutual agreement between the parties, defendant No.1 executed sale-deed 19/06/2020 in favour of the proposed defendant/respondent No.2, which is followed by subsequent correction-deed dated 28/12/2020. The sale-deed in favour of proposed defendant is executed after filing of the suit.

04. In view of the above, the application, although it is filed under Order 1 Rule 10 of the Code of Civil Procedure (C.P.C.), can be considered as one filed under Order 22 Rule 10 of C.P.C. The learned Trial Court has found that since defendant No.1 has sold the property, he may not contest the suit diligently having lost of interest in the subject matter of the suit.

05. This Court finds no reason to interfere with the discretion exercised by the learned Trial Court while allowing the application (Exh.45), particularly having regard to the mandate of Order 22 Rule 10 of C.P.C.

06. The writ petition is, therefore, dismissed with no order as to costs.

JUDGE

**sandesh*