

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

SECOND APPEAL NO.224 OF 2021

APPELLANT

(Ori. Deft.)
(on RA)

:- Chhaya Deepak Urkude,
Aged 45 years, Occ. Business,
R/o Chacks Colony, Mhada Quarter, Near
House of Adv. Narnaware, Nagpur.

..VERSUS..

RESPONDENT

(Ori. Plff.)
(on RA)

:- Ajay Sukhadas Sukhadeve,
Aged 35 years, Occ. Business
R/o. Republican Nagar, Nara Road, Near
Barakholi, Nagpur.

Correction carried
out as per Court
order dated
17.10.2025.

Ms Kadambini M. Meshram, Advocate for Appellant.
Mr. D.C. Chahande, Advocate for the Respondent.

CORAM : ROHIT W. JOSHI, JJ.

DATE : 08/10/2025

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.
3. Vide order dated 17.12.2021, notice was issued on the following substantial question of law:-

“Whether learned First Appellate Court is right in not remanding the matter back to the learned trial Court, on finding that it was a mistake on the part of the advocate, who did not appear before the learned trial Court on three occasions and was the reason for the Court to proceed ex-parte against the defendant?”

4. The respondent/original plaintiff has appeared in the matter. The learned Advocate for the respondent/plaintiff states that he has no objection for remanding the matter before the learned trial Court for consideration of the suit afresh. However, he states that the principal amount is Rs.1,60,000/- and therefore, the appellant/defendant should be put to some terms in order to secure the amount. The learned Advocate for the appellant/original defendant on instructions makes a statement that sum of Rs.75,000/- will be deposited by the defendant with the learned trial Court on or before the date fixed for appearance. In view of the above with the consent of the advocates, following order is passed :-

- i) The second appeal is **allowed**.
- ii) The order dated 22.09.2021 passed by the learned Adhoc District Judge-2, Nagpur, in Regular Civil Appeal No.242 of 2018 and decree dated 21.02.2018 passed by the learned 4th Joint Civil Judge, Junior Division, Nagpur in Regular Civil Suit No.1326 of 2015, are hereby

quashed and set aside.

iii) The matter is remitted to the learned trial Court for deciding the suit afresh.

iv) The parties shall appear before the learned trial Court on **10.11.2025**. The learned trial Court to make endeavor to decide the suit as early as possible and in any case before **30.09.2026**.

v) Parties to note that separate summons/notice for appearance will not be issued.

vi) This is however, subject to the condition that the defendant/appellant shall deposit sum of Rs.75,000/- with the learned Trial Court on or before **10.11.2025**.

In the event, the amount is not deposited within the stipulated period, the decree shall become operative and executable without further reference to the Court. The amount of Rs.25,000/- deposited by the appellant with this Court shall be remitted to the learned Trial Court

Rule is made absolute in above terms. No order as to

costs.

(ROHIT W. JOSHI, J.)