



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

SECOND APPEAL NO. 274 OF 2021

Naved Khan s/o Naeem Khan and anr.

Vs.

Amar @ Ambar s/o Narayan Ramteke and anr.

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

Court's or Judge's Orders.

Mr. Nitin Vyawahare, Advocate for appellants.
Mr. S.P. Mokadam, Advocate h/f Mr. N.S. Talmale,
Advocate for respondent Nos.1 & 2.

CORAM : ROHIT W. JOSHI, J.

DATE : 11.12.2025

Heard finally with the consent of both
the learned counsel for the parties.

2. Notice in the present Second Appeal was issued vide order dated 06.12.2021. One of the substantial questions of law framed by this Court is as to whether the learned First Appellate Court was duty bound to decide the application for permission to lead additional evidence filed by the present appellant/original plaintiff under Order 41 Rule 27 of the Code of Civil Procedure for permission to lead additional affidavit.

3. The learned counsel for the respondents in all fairness does not dispute that the application for permission to lead additional evidence was not decided by the learned First Appellate Court while deciding the appeal.

4. The learned counsel of both parties have jointly submitted that the appeal can be remanded to the learned First Appellate Court for deciding the same afresh.

5. In view thereof, second appeal is partly allowed and disposed of in the following terms :-

i) Judgment and decree dated 01.10.2021 passed by the learned District Judge-1, Bhandara in Regular Civil Appeal No.85/2017 is hereby quashed and set aside.

ii) The learned First Appellate Court is directed to decide the appeal afresh along with the application for permission to lead additional evidence filed under Order 41 Rule 27 of the Code of Civil Procedure.

iii) Parties to appear before the learned First Appellate Court on 05.01.2026. Parties to note that a separate notice for appearance will not be issued.

iv) Since the dispute is pending between the parties since the year 2007, the learned First Appellate Court is requested to decide the appeal expeditiously and in any case before 30.09.2026.

v) Interim order dated 06.12.2021 passed by this Court shall continue to operate during the pendency of the Regular Civil Appeal No.85/2017.

(ROHIT W. JOSHI, J.)