



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

SECOND APPEAL NO.266 OF 2025

APPELLANT

(Original Defendant) (ON RA)

:-

Ravindra S/o Kashinath Raut,
Aged about 58 years, Occ: Cultivator,
R/o Dokesarandi, Tah. Lakhandur, Dist.
Bhandara.

..VERSUS..

RESPONDENTS

(Original Plaintiffs) (ON RA)

:-

- 1) Kedar S/o Baburao Kawale,
Aged about 52 years, Occ: Cultivator,
R/o Dokesarandi, Tah. Lakhandur, Dist.
Bhandara.
- 2) Motilal S/o Baburao Kawale,
Aged about 52 years, Occ: Doctor,
R/o Lakhandur, Tah. Lakhandur, Dist.
Bhandara.

Mr. P.J. Mehta, Advocate for Appellant.

Mr. Prashant M. Sinha, Advocate for Respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 21/11/2025

ORAL JUDGMENT :

1. Heard finally with the consent of learned counsel for the respective parties, on the substantial question of law framed vide

order dated 30.09.2025. It is not in dispute that two separate applications, one for amendment of the written statement and another seeking permission to lead additional evidence were filed by the appellant in Regular Civil Appeal No.97 of 2019 and that the said applications were not decided by the learned First Appellate Court while deciding the appeal finally.

2. Perusal of the judgment will demonstrate that submissions with respect to the application for permission to lead additional evidence are recorded by the learned First Appellate Court. However, the said application is not decided on merits. Perusal of the judgment also indicates that the contentions with respect to additional evidence are not dealt with. The judgment and decree passed by the learned First Appellate Court therefore, cannot be sustained in view of the law laid down in the matter of *Union of India ..vs.. Ibrahim Uddin* reported in **(2012) 8 SCC 148**.

3. The substantial question of law is accordingly answered in favour of the appellant and against the respondents. Accordingly, second appeal is partly allowed in the following terms :-

- i) Second Appeal is **partly allowed**.
- ii) The judgment and decree dated 26.06.2025, passed by the learned Principle District Judge, Bhandara, in Regular Civil Appeal No.97 of 2019, is quashed and set aside.
- iii) Regular Civil Appeal No.97 of 2019, is remitted to the file of the learned First Appellate Court to decide the appeal afresh along with applications for amendment of the written statement and permission to lead additional evidence.
- iv) Parties are directed to appear before the learned First Appellate Court on **15.12.2025**. Parties to note that separate notice will not be issued.
- v) Parties to bear their own costs.

(ROHIT W. JOSHI, J.)