



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

CIVIL APPLICATION [CAS] NO. 793/2024
IN SECOND APPEAL NO. 160/2010.

Vidyawati Bahadursingh Rajput [since dead] through L.Rs. Santoshsingh and others.

-VERSUS-

Smt. Shobhabai Rajaram Junankar [since dead] through L.Rs. Sanjay and others.

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

Court's or Judge's Orders

Shri S.S. Joshi, Advocate for Appellants.
Shri M.Y. Wadodkar, Advocate for Respondent No.1.

CORAM : ROHIT W. JOSHI, J.

DATE : MAY 02, 2025.

Heard.

2. Second Appeal No.160/2010 came to be admitted for final hearing vide order dated 20.04.2010. Simultaneously by way of an interim relief, stay was granted to execution of the impugned decree. Thereafter, respondent has filed a Pursis intimating to this Court about the intention of appellants to sell the suit property. The appellants were absent when the matter was called out for hearing, and therefore, vide order dated 28.04.2023, the interim relief was vacated.

Subsequently for the same reason, the appeal also came to be dismissed for want of prosecution vide order dated 20.06.2023.

3. On an application filed by the appellants, the appeal came to be restored to file vide order dated 10.07.2024. The present application is filed seeking restoration of the interim relief. The contention of the learned Counsel for appellants is that in view of restoration of appeal, the interim order should also be restored, failing which serious prejudice would be caused to the appellants.

4. The learned Counsel for respondent strongly opposes the motion pointing out that the appellants had tried to gain undue advantage of the interim relief granted by this Court by creating third party interest in order to defeat the decree passed in their favour.

5. The appeal is of the year 2010. It is admitted by framing substantial questions of law. This Court has found favour with the explanation offered by the appellants for non-appearance and accordingly restored the appeal. In that view of the matter, it would

be expedient that the interim relief granted vide order dated 20.04.2010 is restored, subject to condition that the appellants shall not create any third party interest over the suit property and shall not part with possession of the same till the final disposal of the appeal.

6. Since the appeal is of the year 2010, office is directed to include the same in the final hearing board of June, 2025. The learned Counsel for the appellants makes a statement that the appeal would be argued as and when it is called out for hearing.

Civil Application is accordingly disposed of.

JUDGE