



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

CIVIL APPLICATION (CAO) NO. 505 OF 2025

IN

CIVIL APPLICATION (CAS) NO. 88 OF 2023

IN

SECOND APPEAL ST. NO.499 OF 2023

SMT. SARASWATI WD/O CHIRKUT MESHARAM AND OTHERS

Vrs.

SHRIRAM S/O NARAYANRAO TIDKE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. H. Jamal, Advocate for applicants/appellants.

CORAM: ROHIT W. JOSHI, J.

DATE : 08/05/2025.

1. Permission to furnish correct address of Respondent No.8 is granted.
2. The civil application is allowed.
3. Necessary amendment be carried out within stipulated period.

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4. On hearing learned counsel for the appellants, following substantial questions of law arise in the present second appeal :

“i] Whether the learned First Appellate Court has erred in reversing the Judgment and Decree passed by the learned Trial Court thereby refusing to grant decree for specific performance of contract and having regard to the reasons

recorded by the Trial Court in Para Nos.22 and 27 of the judgment.

ii] Has the learned First Appellate Court erred in law in substituting the discretion exercised by the learned Trial Court, particularly in view of inaction on the part of plaintiffs to take appropriate steps for enforcement of agreement within the stipulated period of one year fixed for execution of sale deed ?

iii] Whether the provisions of Specific Relief Act as amended by Specific Relief Amendment Act, 2018 will be applicable in the present case in which the agreement in question is executed between the parties on 02/06/2007 ?”

5. Issue fresh notice to the respondents on the substantial questions of law enumerated above, returnable in first week of July, 2025.

6. The appellants are permitted to serve the respondents by all permissible modes of private service, in addition to regular mode of service.

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7. Leave to amend the prayer clause in order to add prayer clause for temporary injunction in relation to creating third party interest is granted.

8. Amendment be carried out forthwith.

9. The present application is filed seeking stay to the execution of the Judgment and Decree dated 18/01/2022 passed by the learned Ad-hoc District Judge-1, Nagpur in R.C.A.No.113/2017 granting decree for specific performance of contract in favour of the respondents / original plaintiffs and for grant of temporary injunction.

10. Notice is issued to the respondents on the substantial questions of law enumerated in the order dated 08/05/2025.

11. In that view of the matter, it will be appropriate in the interest of justice that execution of impugned decree is stayed and the respondents – plaintiffs are restrained from creating any third party interest over the suit property, till next date.

12. Issue fresh notice to the respondents, returnable in first week of July, 2025.

13. The appellants are permitted to serve the respondents by all permissible modes of private service, in addition to regular mode of service.

[ROHIT W. JOSHI, J.]