

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 55 OF 2026

Bhalchandra Vinayak Sakhare

VERSUS

Rama Uttam Markad Since Deceased Thr Legal Heirs

WITH

INTERIM APPLICATION NO. 365 OF 2026

IN

SECOND APPEAL NO. 55 OF 2026

Bhalchandra Vinayak Sakhare

VERSUS

Rama Uttam Markad Since Deceased Thr Legal Heirs

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Mr. Rupesh K. Bobade a/w Mr. Niranjan V. Dhainje Advocate for
Appellant/Applicant.

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 26th MARCH, 2026.

P. C. :

SECOND APPEAL NO. 55 OF 2026 :

1. Heard.
2. The appeal involves the following substantial questions of law :
 - i. Whether the concurrent findings of the Courts below on possession are vitiated by perversity, having been recorded in disregard of material documentary evidence, including the registered Sale Deed dated 28.11.1997 and the respondent's contemporaneous statement evidencing delivery of possession?

- ii. Whether the Courts below erred in law in holding that possession could be obtained only through execution proceedings under Order XXI CPC, despite evidence on record indicating voluntary delivery of possession and closure of execution proceedings?
 - iii. Whether the impugned findings are contrary to settled legal principles in (a) treating mutation entries and revenue evidence as conclusive proof of possession, and (b) ignoring the binding effect of the previous judgment in R.C.S. No. 421/2013?
3. In view of above, admit.

INTERIM APPLICATION NO. 365 OF 2026 :

4. For the reasons stated in the application, the same is allowed in terms of prayer Clause (c).

[SACHIN S. DESHMUKH, J.]