



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

SECOND APPEAL NO. 113 OF 2025

SUCHITA W/O KISAN GANORKAR

Vrs.

SHARAD S/O LAXMAN GIRI (GOSAVI) 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 R. V. Gaikwad, Advocate for appellant.

CORAM: Y. G. KHOBRAGADE, J.

DATE : 28/04/2026.

1. Despite service, none appeared for the respondent Nos.1 to 5.
2. By the present appeal under Section 100 of the Code of Civil Procedure, the appellant / original defendant No.4 challenged the judgment and decree dated 02/08/2024 passed in RCA No.138/2023 by the learned District Judge-1 and Additional Sessions Judge, Warud, Dist. Amravati, thereby affirmed the judgment and decree dated 09/08/2021 passed in RCS No.64/2013 by the learned Civil Judge, Junior Division, Warud and thereby, declared that the plaintiffs / present respondent Nos.1 and 2 are jointly entitled to 1/3rd share along with the defendant Nos.2 and 3 i.e. present respondent Nos.3 and 4 and the present respondent No.5 / original defendant No.1 is entitled for 1/3rd share in the suit house. The present appellant / original defendant No.4 allegedly to have purchased the property

from her vendor. The present respondent No.5 / original defendant Prabhatai Babu Giri (Gosavi).

3. Needless to say that on 21/11/2025, this Court framed the following question of law while issuing notice.

“Admittedly, when the sale deed with respect to the suit property is in the name of husband of the vendor of the appellant, can the suit property be said to be ancestral property in the absence of any finding regarding the joint nucleus ?”

4. **Admit.**

5. Call Record and Proceedings.

Civil Application (CAS) No.442/2025

6. This is an application for stay to the effect, operation and execution of the decree passed by the learned Trial Court on 09/08/2021 in RCS No.64/2013 and affirmed by the learned First Appellate Court on 02/08/2024 in RCA No.138/2023.

7. The present appellant appears to be in possession of the property and Municipal Tax also assessed in her name.

8. Therefore, considering the substantial question of law involved in the present appeal, it would be just and proper to stay the effect, operation and execution of the impugned judgment and decree dated 09/08/2021 passed by the learned Trial Court in RCS No.64/2013 and

affirmed by the learned First Appellate Court in RCA No.138/2023 during the pendency of the appeal.

9. Accordingly, application stands disposed of.

[JUDGE]

Choulwar