



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

MISC. CIVIL APPLICATION NO. 131 OF 2026

IN

SECOND APPEAL NO. 234 OF 2025

(WAGHU POCHIRAM GEDAM

VS

MIRABAI W/O NAMDEO TEKAM AND ANOTHER)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. A.C.Dharmadhikari and Mr. A.U.Deshmukh, Advocates for applicant.

CORAM : ROHIT W. JOSHI, J.

FEBRUARY 18, 2026

1) The present application is filed seeking review of judgment dated 12/09/2025 passed by this Court in Second Appeal No.234/2025. The applicant who had preferred the said appeal is defendant No.3 in the civil suit out of which, the aforesaid Second appeal arose. The respondent No.1 in second appeal who is the original plaintiff had filed suit for possession against defendant Nos.1 and 2 claiming ownership over the suit property on the basis of sale deed dated 21/06/1982 executed in his favour by father of defendant Nos.1 and 2. The defendant No.3/present applicant was subsequently added as a party to the suit.

2) The case of the defendant No.3 was that he was cultivating the suit property as a tenant of defendant No.1 from the year 1991 and that in the proceeding initiated by him under the provisions of the Hyderabad Tenancy and Agricultural Lands Act, 1950 sale certificate was executed in his favour on 25/08/2004 pursuant to passed under the said Act. A

contention was raised in the second appeal that in view of the provisions of Tenancy Act, decree for possession could not be passed against the defendant No.3 having regard to the sale certificate dated 25/08/2004 issued in his favour after declaring him to be a tenant.

3) The said contention was rejected by this Court on the ground that the adjudication of civil suit was with respect to title of the plaintiff on the basis of sale deed dated 21/06/1982 which was executed by father of defendant No.1. It is held by this Court that since the defendant No.3/applicant claims to be tenant of defendant No.1 from the year 1991 and that he never claimed tenancy rights against the plaintiff or his vendor, the suit filed by the plaintiff was maintainable and that Civil Court has jurisdiction to decide the said suit.

4) A contention is raised in the present review application that Civil Court will not have the jurisdiction to pass decree for possession against the defendant No.3 in view of sale certificate dated 25/08/2004 issued in his favour. This Court has rejected the said contention in the Second Appeal on the ground that defendant No.3 does not claim to be tenant of plaintiff or his vendor and that the defendant No.3 claims to be tenant of defendant No.1 from the year 1990 when the defendant No.1 was not owner of the property in view of sale deed dated 21/06/1982 executed by his father in favour of the plaintiff.

5) The said contention is reiterated in the present application for review. The said contention is liable to be rejected since the dispute in the civil suit was ownership dispute between the plaintiff and defendant Nos.1 and 2. Since the plaintiff is held to be owner on the basis of sale deed prior to the date on which defendant No.3 claims tenancy rights over the suit

property against defendant No.1, the Civil Court obviously has the jurisdiction to decide the suit. The Civil Court has rightly passed decree for possession in favour of plaintiff since the sale deed in favour of plaintiff is prior to the date on which defendant No.3 claims that tenancy rights were created for the first time in his favour.

6) The other contention raised is that the sale certificate ought to have been challenged or at least declaration should have been sought that the sale certificate is not binding on the plaintiff. The said contention is rejected in view of the fact that the sale certificate is not issued in a proceeding to which the plaintiff or his vendor were joined as party. The sale certificate is not issued against the plaintiff or his vendor. It is well settled proposition of law that orders to a proceeding are binding only on parties to the proceeding or persons who claim under such parties and that a person who is not a party to the proceeding can afford to ignore such orders. Reference in this regard can be made profitably to the judgment of the Hon'ble Supreme Court in the case of *Shiv Kumar Tiwari (dead) by LRs. vs. Jagat Narain Rai and others*, reported in (2001) 10 SCC 11.

7) In view of above, the second contention raised by the learned counsel for the applicant is also liable to be rejected.

8) The application for review is without any merit and is accordingly rejected.

(ROHIT W. JOSHI, J.)