



*Shabnoor*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1452 OF 2016**

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Pushpa Pramod Laxman Shenoy  
(Since deceased through legal heirs)

Rajan Pramod Shenoy & Anr.

... Appellants

**V/s.**

Pramod Laxman Radhakrishna  
Shenoy & Ors.

... Respondents

**WITH**

**CROSS OBJECTION (ST) NO. 10744 OF 2017**

Pramod Laxman Radhakrishnan Shenoy

... Petitioner

**V/s.**

Pushpa Pramod Laxman Shenoy

... Respondents

**WITH**

**CROSS OBJECTION (ST) NO. 14169 OF 2017**

Madhu Nisha Sharma Alias

Madhu Sharma @ Nisha Agnihotri

... Petitioner

**V/s.**

Pushpa Pramod Laxman Shenoy

... Respondents

Mr. Aseem Naphade, Suraj Iyer a.w Deepanjali Mishra  
& Kavita Shurma i/b Ganesh & Co., for the Appellatns.

Mr. P. L. Shenoy – in – person is present in the Court.

Mrs. Nisha Agnihotri – in – person is present in the  
Court.

**CORAM : AMIT BORKAR, J.**

**DATED : JANUARY 27, 2026**



P.C.:

1. During the hearing, the Court heard the advocate for the appellants. The Court also heard the respondents who chose to appear in person. The Court allowed both sides to place their submissions without interruption. The dispute centered around the nature of reliefs already granted and the scope of this appeal.

2. After hearing the parties for some time, the Court orally observed a tentative view. The Court tentatively observed that the decree passed by the Trial Court appeared correct on the face of the record. The suit filed by the plaintiff was only for two reliefs. First, a declaration of ownership. Second, a permanent injunction restraining the defendants from disturbing the plaintiff's possession. The Trial Court granted those reliefs. The Court noted that the respondent has already filed a separate eviction suit before the City Civil Court. That suit seeks possession of the same flat. That suit is the proper forum to seek such relief. The present appeal does not concern eviction. Therefore, the Court proposed that the eviction suit could be expedited. The Court also proposed that the present appeal could be disposed of by confirming the decree. This course would avoid conflicting findings and would not prejudice the respondent's claim for possession in the pending eviction suit. At this stage, the respondent who appeared in person declined to accept this course and insisted that the Court must grant possession in this appeal itself. The respondent could not show any pleading or prayer before the Trial Court asking for possession. The respondent could not explain how such relief can be granted for the first time in appeal.



3. Despite the above, the respondents continued to argue that the Court must grant possession of the flat in this proceeding. The Court noted that such prayer falls outside the scope of this appeal. The appeal arises from a decree which only relates to declaration and injunction. An appellate Court cannot grant a substantive relief which was never claimed, pleaded, or adjudicated by the Trial Court. The respondents did not justify how their new prayer could be considered at the appellate stage.

4. The Court therefore directs that this appeal not be placed before the bench of Justice Amit Borkar.

**(AMIT BORKAR, J.)**