

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 551 OF 2023

Vinayak Dashrath Tambe & Ors.

...Appellants.

Versus

Ganesh Kashiram Aahire & Ors.

...Respondents.

WITH

SECOND APPEAL NO. 423 OF 2024

Varsha Ajit Dushing.

...Appellant.

Versus

Ganesh Kashiram Aahire & Ors.

...Respondents.

Mr. R.M. Haridas a/w. Mr. Sanjay P. Shinde, Advocate for Appellants
in both SA.

Mr. R.V. Govilkar, Senior Advocate a/w. Mr. Girish Agrawal, Advocate
for Respondents in both SA.

CORAM: N. J. JAMADAR, J.

DATE : 4TH MAY 2026

P.C.:

1. Heard the learned Counsel for the parties. The following
substantial questions of law arise for consideration :

(i) Whether the Courts below have committed an error in passing
composite decree for specific performance of contract in favour of
Plaintiff Nos. 1 to 3, when the Plaintiff No. 1 had executed an earnest
note and received consideration thereunder from Plaintiff Nos. 2 and 3,
whilst Plaintiff No. 1 had no interest in the suit property which he could
have conveyed ?

(ii) Whether the Courts below have committed an error in passing composite decree for specific performance of contract in favour of the Plaintiff Nos. 1 to 3, in respect of the suit properties, while the earnest note purportedly executed in favour of the Plaintiff Nos. 2 and 3 was only in respect of one out of the two suit properties ?

(iii) Whether the learned Civil Judge and District Judge below have misconstrued the readiness and willingness on the part of the Plaintiff Nos. 2 and 3 and thereby misdirected themselves in passing the decree for specific performance of the contract ?

2. Issue notice to the Respondents.

3. Mr. Agarwal, the learned Counsel waives service of notice for all the Respondents.

4. Call for R & P

5. Printing is dispensed with.

6. The Appellants shall file private paper book within a period of 10 weeks from today.

7. List the Appeals on 5th August, 2026.

[N. J. JAMADAR, J.]