



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

SECOND APPEAL NO.24 OF 2026

Shoaib S/o Gulam Rasul Qureshi .Vs. Mohd. Shakil Abdul Gaffur Malnas and
another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Shreya H. Bhagat, Advocate for appellant.

Mr. A.R. Ingole, Advocate for respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 26/02/2026

1. Office note dated 25.02.2026 indicates that notice to respondent No.2 by regular mode is received back unserved since respondent No.2 is not residing at the address mentioned in the cause title. The learned Advocate for the appellant states that notice sent through speed post is also returned back unserved with an endorsement, "Addressee left".

2. The learned Advocate points out that respondent No.2 was proceeded *ex-parte* in Regular Civil Appeal No.27 of 2022. It is necessary to note that the learned trial Court has passed a decree for cancellation of sale deed executed by the respondent No.2 in favour of the present appellant and passed a decree for specific performance of contract in favour of respondent No.1/plaintiff. The respondent No.2 did not challenge the said decree. The appellant had challenged the said decree by filing first appeal being Regular Civil Appeal No.27 of 2022, which came to be dismissed. Present Second Appeal

takes exception to the aforesaid concurrent decrees. It appears that, respondent No.2 is not interested in prosecuting the matter, since he has sold the suit property to the present appellant. He was also proceeded *ex-parte* in the first appeal.

3. In view of the aforesaid, appellant is permitted to serve the respondent No.2 by newspaper publication under Order 5 Rule 20 of the CPC.

4. Issue fresh notice to the respondent No.2 on substantial question of law framed vide order dated 22.01.2026 indicating that the appeal will be heard finally at the admission stage. Notice be published in daily newspaper "Nav Bharat or Dainik Bhaskar".

5. Call record and proceedings.

6. Appellant is directed to file copy of paper book prepared in Regular Civil Appeal No.27 of 2022 on record before the next date.

7. Stand over to **15.04.2026**.

(ROHIT W. JOSHI, J.)