



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

Appeal Against Order No.16 of 2019

Nitinkumar Madhukarrao Paghurt

VS.

Vinayak Pandurang Belokar & others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.D. Bhate, Advocate for the Appellant

CORAM : S.M. MODAK, J.
DATE : 27th SEPTEMBER, 2019.

This is a plaintiff's appeal against order dated 29/10/2018 passed by the Adhoc District Judge-2, Khamgaon. Trial Court decreed his suit for specific performance on 23/09/2010. The original defendants have challenged the said judgment by way of R.C.A. No.108/2010. After hearing the learned District Judge has passed the order, which is challenged before this Court.

The learned District Judge remanded the matter with directions to frame issue on a particular point. Full retrial of the suit was ordered. The present appellant and one Smt. Shalini Burade have executed a sale-deed with these respondents. In addition to that, there was a separate agreement to sell the land, which may be found in excess of the



land sold as per the sale-deed and this should be in the measurement. These respondents failed to execute a sale-deed even though land was found in excess. This compelled the present appellant to file a specific performance suit. There is a grievance that remand was not necessary because said Shalini Burade has already sold away her rights afterwards.

Since arguable issues are involved, issue notice to the respondents, returnable after two weeks.

Civil Application [CAA] No.34/2019 :

The applicant/appellant wants stay of the impugned order. Yet the trial Court has to frame the issue as directed by the First Appellant Court.

Issue notice to the respondents, returnable after two weeks.

The appellant may insist for the stay on the next date.

JUDGE

**sandesh*