



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

SECOND APPEAL NO.67 OF 2024

Sushil S/o. Ramdas Waghire and others
.VS.

Dayaram S/o. Jagan Jamgade (dead) through LR's and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mrs R. S. Sirpurkar, Advocate for the appellants

CORAM : G.A. SANAP, J.
DATE : APRIL 26, 2024.

Heard learned Advocate for the appellants.

2. Issue notice to the respondents, on following
substantial questions of law:

(i) Whether the learned Court below could have arrived at the positive finding of payment of consideration amount of Rs.4,50,000/- on the day of the agreement to sale, on the basis of assumption and surmises as recorded in para No. 23 and 24 of the impugned judgment ?

(ii) Whether the admission of the plaintiff that the Exh. 50 is the photocopy of Exh. 35, could have been ignored by the learned Court below before rejecting that the defendants'/appellants' claim that no earnest amount was received along with the agreement to sell ?

CIVIL APPLICATION NO. 229 OF 2024

3. Heard.

4. Issue notice to the respondents, returnable within **eight weeks**.

5. In the meantime, there shall be stay to the execution of judgment and decree dated 17.11.2009 passed by the learned Civil Judge Senior Division, Nagpur in Special Civil Suit No. 1020 of 2006 and confirmed by the learned Ad-hoc District Judge, Nagpur vide judgment and order dated 06.02.2024 in Reg. Civil Appeal No. 111 of 2016, till next date.

(G. A. SANAP, J.)