

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

SECOND APPEAL 375 OF 2019

(Bhogelal @ Bhogalal s/o. Bhima Korku..vs.. Shivram Dadu Bethe and ors)

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

Court's or Judge's orders.

Shri A.V. Bhide, counsel for appellant.

CORAM: ROHIT B. DEO, J.

DATE: 22th AUGUST, 2019.

Issue notice on substantial questions of law
formulated at serial 3, 7 & 8.

(i) *Whether the learned Judge of the appellate Court after having observed in paragraph 31 of the judgment that the counter claim Exh. 45 was not pressed by the defendants and the application for amendment of written statement to add the counter claim was rejected by the learned trial Judge, whether the Courts below were justified in decreeing the counter claim which was lodged by the legal heir of defendant 4 – Patiram?*

(ii) *Whether the Courts below after having seen that the appellant was in possession of the suit property on the date of filing of the suit and resultantly interim injunction order was passed in his favour, whether were justified in holding that the defendants were dispossessed by the plaintiff during the pendency of Regular Civil Suit 21/2003?*

(iii) *Whether the Courts below in the absence of any evidence were justified in holding that taking the advantage of order of temporary injunction, the plaintiff dispossessed the defendants?*

Notice is made returnable on 19.9.2019.

...2/-

CIVIL APPLICATION 750 OF 2019

Issue notice returnable on 19.9.2019.

In the interregnum, there shall be stay to the direction issued by the Court below to deliver possession.

JUDGE

rsb