



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

SECOND APPEAL NO.260 OF 2025

Aatmaram Mhatarji Satpute .Vs. Taramati Gendulal Nahar

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

Court's or Judge's Order

Mr. Nikhil Valesha, Advocate for appellant.

CORAM : ROHIT W. JOSHI, J.

DATE : 07/01/2026

1. The appellant is the original defendant against whom a suit for possession of immovable property was filed by the respondent. The case of the appellant is that, he had entered into an agreement of sale with respect to suit property on 11.08.1986 *inter alia* agreeing to purchase the suit property for consideration of Rs.23,500/- and is in possession of the same in terms of the said agreement.

2. Perusal of the findings recorded by the learned trial Court will indicate that the appellant had paid consideration of Rs.18,500/- to the respondent from time to time. The appellant opposed the suit for possession placing reliance on Section 53A of the Transfer of Property Act, 1882. The learned trial Court has rejected the contention on the ground that the appellant did not file a suit for specific performance for an inordinately long period, which indicated that he was not ready and willing to perform his part of the contract. It will be pertinent to state that counter claim for specific performance filed by the appellant is dismissed. The learned First Appellate Court has

maintained the decree for possession and dismissal of counter claim for specific performance.

3. Having regard to the findings recorded by the learned Courts, following substantial questions of law arises for consideration in the present second appeal :-

“a) Whether the learned Courts were right in rejecting the contention of the appellant with respect to Section 53A of the Transfer of Property Act, 1882, despite the finding that, out of the agreed sale consideration of Rs.23,500/-, the appellant had paid Rs.18,500/- to the respondent ?

b) Whether the relief of protection of possession under Section 53A of the Transfer of Property Act, 1882, can be refused only on the ground that the suit for specific performance is barred by limitation ?”

4. Issue notice to the non-applicant, returnable on 10.02.2026.

5. The applicant is directed to serve the non-applicant by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

CIVIL APPLICATION (CAS) NO.856 OF 2025

1. Issue notice to the non-applicant, returnable on 10.02.2026.

2. The applicant is directed to serve the non-applicant by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

3. In view of substantial questions of law framed in the appeal, it is apparent that an arguable case is made out by the appellant. In view of the above, by way of *ad-interim* order, it is directed that execution proceedings for execution of impugned decrees may continue, however *status quo* shall be maintained with respect to possession till the returnable date.

4. In order to balance equities, the appellant is directed to deposit sum of Rs.2,00,000/- with this Court on or before **07.02.2026**.

5. In the event, the amount is not deposited as aforesaid, the interim order shall stand vacated without reference to the Court.

(ROHIT W. JOSHI, J.)