

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

**SECOND APPEAL NO.49 OF 2017**

*(Gajanan Dhansing Chouhan*  
*vs.*  
*Shankar Pundlik Kadu)*

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

*Court's or Judge's Orders*

**CORAM : V.M. DESHPANDE, J.**  
**DATE : 29<sup>th</sup> NOVEMBER, 2017.**

Heard Shri B.M. Mohta, learned Counsel for the appellant and Shri R.G. Kavimandan, learned Counsel for the respondent.

The appeal is admitted on the following substantial questions of law :

- 1) In the light of provisions of Section 36C of the Maharashtra Revenue Code, 1966, whether the suit for possession on the basis of Exchange-Deed, dated 8<sup>th</sup> July, 1992 was maintainable?
- 2) Whether the trial Court was bound to refer the question to the competent authority in view of the observation in Writ Petition No.5700/2005?

Shri R.G. Kavimandan, learned Counsel waives service of notice for the respondent.

**Civil Application [CAS] No.98/2017 :**

This is an application for stay. This Court has already granted *ad interim* relief in terms of prayer clause (1) of the application.

Heard the learned Counsel for the parties.

Today the Court has admitted the second appeal. Since it involved substantial questions of law, the stay granted in favour of the the appellant is confirmed. However, it is made clear that during pendency of the present appeal, the appellant shall not create any third party interest or shall not handover possession or try to dispose of the suit property, which is in possession of the present appellant.

Civil application is allowed and disposed of accordingly.

**JUDGE**

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