



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

SECOND APPEAL NO. 37 OF 2026

Wasudeo S/o. Namdeo Dandekar (dead) through LRs.

Vs.

Timaji S/o. Ramaji Potbhare through LRs.

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

Court's or Judge's Order

Shri D. R. Galande, Advocate for appellant.

CORAM :- Y. G. KHOBRADE, J.

DATED :- 15.04.2026

In pursuance of the order dated 03.02.2026 passed by this Court, the learned counsel appearing for the appellant made a statement that the appellant has filed service affidavit through online mode stating that the notice sent to the legal heirs of deceased respondent through speed-post was delivered on 13.02.2026 as per the postal tracking report.

2. Despite service to the legal heirs of deceased respondent, none appears on their behalf.

3. Heard the learned counsel for the appellant at length.

4. By the present appeal, the appellants/original plaintiffs invoke jurisdiction of this Court under Section 100 of the Code of Civil Procedure and challenged the judgment and order dated

13.08.2025 passed in RCA No. 149/2021 by the learned First Appellate Court i.e. the District Judge-5, Nagpur thereby confirming the judgment and decree dated 02.09.2021 passed in RCS No. 161/2015 by the learned Civil Judge Junior Division, Kamptee and thereby partly decreed the suit of the appellants directing the respondents/defendants to refund the earnest amount of Rs.31,500/- to the appellants/plaintiffs with interest @ 6% p.a. from the date of suit till its realization.

5. After hearing the learned counsel appearing for the appellant, the following substantial question is framed:-

“Whether both the Courts below refused to grant decree of specific performance of contract merely on ground that a lis was pending for around 30 years although the plaintiff was not responsible for the same ?”

6. **Admit.**

7. Call record and proceedings.

8. The appellant to file paper-book within a period of 10 weeks from today.

9. The prayer of grant of status-quo/interim relief is hereby refused.

10. Stand over to 25.06.2026.

(Y. G. KHOBRAGADE, J.)