

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.599 OF 2013

Vikrant Vasantao Devangswami	.. Appellant.
V/s	
Smt. Shalan Sridhar @ Mohan	
Devangswami (deleted)	.. Respondents.

Mr. S.R. Kulkarni, for the Appellant.
Mr. S.S. Patwardhan, for the Respondents.

CORAM : RAVI K. DESHPANDE, J.
DATED : 15th JULY, 2015

P.C.

1. The suit property belonged to Maltibai, the second wife of Ramchandra who died in the year 1991 and survived by three daughters, namely Sanyogita (defendant No.1), Rajashri (defendant No.2), Sumitra (defendant No.3) and son Shridhar. Son Shridhar died in the year 1988. Therefore, he became the pre-deceased, as Maltibai expired in the year 1991. The suit was filed by widow of Shridhar (plaintiff No.1) and son Prashant (plaintiff No.2) and daughter Priti (plaintiff No.3.), claiming right of pre-emption in respect of sale of the portion of the suit

property on 03rd February, 2001 by the defendant Nos. 1 and 2 in favour of the defendant Nos. 4 and 5.

2. In this factual background, even if the contention of the defendant No. 4 who is purchaser of the suit property from the defendant Nos. 1, 2 and 3 that in terms of the amendment w.e.f. 09th September, 2005, deleting the Section 23 of the Hindu Succession Act, they had right in the dwelling house is accepted, no substantial question of law arises. It is not disputed that Shridhar, the son of Maltibai had $\frac{1}{4}$ share in the property and therefore, heirs can exercise right of pre-emption under Section 22 of the Hindu Succession Act in respect of share of the property sold to the defendant Nos. 4 and 5 on 3rd February, 2001. In view of this, no substantial question of law arises for the consideration of this Court. The Second Appeal is dismissed.

(RAVI K. DESHPANDE, J.)