

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.648 OF 1992

Rajaram Govind Narvekar **APPELLANT**

...V E R S U S...

1] Sadashiv Govind Narvekar

2] Rukmini Krishna Shirsat

3] Laxmibai Bhikaji Korgaonkar

4] Anandi Pandurang Govekar **RESPONDENTS**

S.A. stand dismissed for want of prosecution as against R.No.4, as per Registrar's order dated 06.10.2004 passed on office report.

 Shri S.U. Dhakephalkar i/b Shri P.K. Dhakephalkar, Advocate for Appellant.

None for Respondents.

CORAM: R.K. DESHPANDE, J.

DATE: 30th JULY, 2015.

ORAL JUDGMENT

1] The Trial Court passed a decree in Regular Civil Suit No.26 of 1980 for partition and separate possession on 10.01.1988. The suit was partly decreed by granting declaration that in the suit property 1-A, 1-4 all the parties to the suit have equal share. In property 1-B plaintiff and defendant No.1 each has got 6/15th share and the other defendants have got 1/5th share each. As far as possible *Vahivat* of the parties, if any, in the property liable to be partitioned shall not be disturbed according to their shares. It is further declared that all the remaining

properties are of the defendant No.1 alone and therefore, not available for partition. The decree passed by the Trial Court was the subject-matter of challenge in Civil Appeal No.21 of 1983, which was dismissed on 23.03.1994. Hence, the original plaintiff is before this Court in the second appeal.

2] With the assistance of the learned counsel for the appellant, I have gone through the judgment and order passed by both the Courts below. There is ample evidence on record in support of the finding that all the remaining properties belonged to the defendant No.1 and those are self-acquired properties. The findings are based upon sufficient evidence available on record. The learned counsel for the appellant has relied upon the finding recorded by the Lower Appellate Court that the voters list and the application for ration card at Exh.88 are helpful to draw the conclusion that the family is joint family. The Lower Appellate Court has held that these documents are not helpful to hold that the property which is in the name of member of the family is the joint family property. The only substantial question of law which is framed and pressed is one in ground (D) which is reproduced below:

(D) Whether it was legal and proper on the part of the Courts below to ignore the evidence such as ration card, voter's list and applications of Defendant No 1 claiming that he is the Karta of the family and still come to conclusion that the property in the name of Defendant No.

1 was not a joint family property?

3] In view of the finding recorded by the Courts below that the properties are standing in the name of the defendant No.1 who had sufficient independent income to purchase the property, no presumption can be drawn that the property purchased by the defendant No.1 are the joint family properties, merely because the evidence is produced on record to establish that there existed a joint family. Thus, substantial question of law is therefore, answered accordingly.

4] In the result, the second appeal is dismissed. No costs.

JUDGE