

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.243 OF 2012

*(Shripati Sitaram Gahin, since deceased by his heirs Appa Shripati Gahin and others Vs.
Vennubai Sayaji Gahin and others)*

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's orders.

Shri P.J. Shinde, Advocate for Appellants.

Shri Pradeep S. Gole, Advocate for Respondent Nos.1 & 2.

CORAM: R.K. DESHPANDE, J.

DATE: 27th JULY, 2015.

There is no evidence on record to show that Gat No.184/1, 180 and 172 were the tenanted lands and the 32-M Certificate was in the name of Sitaram. In view of this, the finding of partition and separate partition in respect of these lands does not give rise any substantial question of law. So far as Gat No.324 and 373 are concerned the sale deeds are in the name of Sitaram. Sitaram is alleged to have executed gift deed in the name of his grand son Appa, which is registered and the Courts below have included these properties for partition and separate possession. Hence, the substantial question of law is as under:

- [i] Whether the Courts below have rightly holding that Gat No.324 and 373 were the ancestral property in the hands of Sitaram?

The property No.44/3B stands in the name of Shripati and it is purchased in the year 1963 i.e. after

the death of Sayaji in the year 1957. The evidence has come on record to show that Shripati is purchased the property.

In view of above, second substantial question of law is as under:

- [ii] Whether the Courts below were rightly including Gat No.44/3B for partition and separate possession?

Admit.

The learned counsel for the respondent Nos.1 and 2 waives service of notice.

Civil Application (CAS) No.1163 of 2013:

The proceedings for partition may go on, however, the possession of the appellants shall not be disturbed until further orders from this Court. After the proceedings are conclude the parties are at liberty to move this Court for vacating the interim order in respect of possession.

The civil application stands disposed of.

JUDGE