

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No.137/2014

(Sudhabai wd/o Vasantisingh Parihar and ors. .vs. Dayalsingh Ishwarsingh
Parihar and ors.)

with

Second Appeal No.217/2014

(Sudhabai wd/o Vasantisingh Parihar and ors. .vs. Dayalsingh Ishwarsingh
Parihar and ors.)

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

Court's or Judge's orders.

Mrs. S.W. Deshpande, Advocate for Appellants.
Mr. G.G. Mishra, Advocate for Respondents 2 & 2.

CORAM : A.V. Nirgude, J.
DATED : March 23, 2015.

Both these appeals arise from a common judgment delivered by the lower appellate Court and the learned Judge of the trial Court in two connected suits, which the respondents filed. The case pleaded by the respondents/plaintiffs was as under:-

The respondents/plaintiffs and the appellants/defendants formed Joint Hindu Family. The family had ancestral property which consisted of a house and two pieces of land. They came with a case that their mother before her death bequeathed her share to them. So the respondents/plaintiffs filed suits for partition and to give effect to the will of their mother. The appellants/defendants opposed their case on the ground that the will was not a genuine document. The appellate Court, however, held that the will was properly proved.

At this stage, the Court will not be able to go into the question of fact as to whether the will was genuine or not.

There is a small twist in the tale. During the pendency of the suits, the parties had arrived at a compromise. They jointly sold the part of the agricultural land to a third party and appropriated sale proceeds. They also brought on record the terms of compromise. In view of this development, practically nothing remained in the suits to be decided. Yet the suits were contested.

The learned counsel for the appellants tried to suggest that despite the compromise, her clients-the appellants did not get any share in the suit house. This is factually incorrect because a decree apparently gives them 1/5th share in the suit house. The appeals did not give rise to any substantial question of law. Dismissed.

JUDGE

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