

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

SECOND APPEAL NO.378/2009

Shantabai w/o Sadashiv Gite and others

..Versus..

Pralhad Vitthalrao Gite through L.Rs. and others

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 14.10.2015

None appears for the appellants and none appears for the respondents.

The following substantial questions of law arise for consideration :

“(i) Whether a deed of partition which does not include all the alleged joint family properties, can be a legal and valid partition ?

(ii) Whether the burden is on the plaintiffs to prove the partition as valid and legal ?

(iii) Whether the suit is bad and liable to be dismissed for non-joinder of proper and necessary parties in view of provisions of Order 1 Rule 3 of the Code of Civil Procedure ?

(iv) Whether the presumption drawn by the learned District Judge about the Field Survey No.75/6 being a joint family property and not a self acquired property of

deceased Sadashiv, is valid and legal particularly when plaintiffs did not raise any dispute about it ?”

The appeal is **admitted** on the above substantial questions of law.

The appellants shall file private paper book and decree forms within six months.

C.A.S. NO.764/2009

The interim order granted by this Court on 12th October, 2009 shall continue till the decision of the appeal. The civil application is allowed in the above terms.

JUDGE

Tambaskar.