

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

920 CIVIL APPLICATION NO. 5899 OF 2005

**IN
SA/640/2003
WITH
CA/5900/2005
IN
SA/640/2003
WITH
CA/5916/2005
IN
CA/5899/2005**

PENTAYYA NARSIMALOO YELDI

VERSUS

MAHALAXMI NARSIMALOO YELDI & ORS

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Mr. S.S.Choudhari, Advocate for applicant.

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CORAM : T.V.NALAWADE, J.

DATE : 8th JUNE, 2016

ORAL ORDER :-

. The application is filed for review of the order passed by this Court in Second Appeal No. 640 of 2003.

2. The Appeal was filed by the applicant to challenge the Judgment and decree of R.C.S. No. 65/1982

which was filed for relief of declaration of ownership in respect of suit property and also to challenge the Judgment and decree of the First Appeal filed by the applicant. Heard learned counsel for the applicant.

3. The Judgments delivered by the Courts below and the order made by this Court show that it is the contention of the applicant that the suit house was purchased by him in the year 1961 and so he is the absolute owner of the property. The defence was taken that property was purchased from the business of joint Hindu family and then partition was made and partition document Exh. 165 was prepared. The defence is taken that in partition the property was allotted to defendant No. 1, who in turn gifted it to defendant No. 3. The gift was made in the year 1978.

4. This Court has considered the aforesaid rival contentions and the Appeal is dismissed by holding that no substantial question of law as such is involved. The question involved was, “ whether the property was self-acquired property of the plaintiff or it was joint Hindu family property ”. It was a question of fact and there are concurrent findings. These circumstances are considered by this Court. Learned counsel for the applicant submitted that memorandum of partition Exh. 165 was not registered and so it could not have been considered. This contention is not acceptable. The case of the defendant that there was partition, could have been considered and the case that the property was allotted to defendant No. 1 could have been considered separately and also the document at Exh. 165 could have been considered

for collateral purpose. Thus, there is no scope to consider the review application.

5. In the result, Review Application stands rejected. Other two Civil Applications stand disposed of.

[T.V.NALAWADE, J.]

KNP/C.A. 5899.2005 in S.A. 640.2003.odt