

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

***SECOND APPEAL No. 160 of 2015
Along with
CIVIL APPLICATION No.328 of 2015***

Namdeo Amruta Mhaske

Deceased by his legal representatives

A. Ashok Namdeo Mhaske & anr. .. Appellants

Vs.

Smt.Shantabai Kisan Mhaske & ors. .. Respondents

Mr.Drupad Patil, for the Appellants / Applicants.

Mr.P.S.Dani -senior Advocate i/b Mr.Tejas Deshmukh, for the
Respondent Nos.1, 3 and 4.

***CORAM: N.M. JAMDAR, J.
Wednesday, 16 March 2016.***

PC. :

Heard learned counsel for the parties.

2. **Admit**, on the following substantial questions of law :-

(i) Whether both the Courts erred in discarding the defence of the Appellants that the properties 1(D) and 1(E) were acquired by Namdeo Amruta Mhaske from his independent income.

ii) Whether both appellate Court and the trial Court failed to give effect to the position of law that property cannot be presumed to be a joint family property merely because

existence of joint family as laid down by the Apex Court in the case of *D.S.Lakshmaiah and another Vs. L.Balasubramanyam and another* - (2003) 10 Supreme Court Cases 310.

3. In view of the admission of the Appeal and that decree is of possession, the ad-interim relief granted by this Court on 1 September 2015 in the Second Appeal shall continue till the disposal of the Appeal. Civil Application is accordingly disposed of.

(N.M.Jamdar, J.)