

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

Second Appeal No.385 of 2012  
(Badriprasad s/o Rajaram Jaiswal v. Shankarlal s/o Rajaram Jaiswal and  
others)

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

Court's or Judge's orders

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Shri R.M. Pande, Advocate for Appellant.  
Shri I.S. Charlewar, Advocate for Respondent No.1.

**Coram : R.K. Deshpande, J.**

**Date : 27<sup>th</sup> June, 2016**

Heard the learned counsels appearing for the parties, who have agreed for disposal of the matter by an order as under :

1. The decree passed by the Trial Court, as confirmed by the lower Appellate Court, for partition and separate possession is maintained. The parties, however, do not dispute that the property, i.e. plot, at serial no.3-A(ii) described in the plaint was allotted in the name of the appellant-Badriprasad Jaiswal by the Government as per the order dated 18-6-1996 at Exhibit 109. Whether the appellant has purchased the property from the Government, is of no significance till the allotment stands in favour of the appellant. The appellant shall, therefore, remain the allottee of the plot at serial no.3-A(ii) described in the plaint.

2. The appellant has, however, admitted in his evidence that the construction on this plot of land at serial no.3-A(ii) has been made by the joint funds. In view of this, the construction standing on the property in question is jointly owned by the parties and accordingly the decree for partition in respect of this property shall relate only to the house property standing on the plot. The appellant shall always be the owner of the plot on the basis of the allotment order, till it is revoked.

3. At this stage, the learned counsel for the appellant submits that the Trial Court has no jurisdiction to entertain, try and decide the suit for partition in respect of the properties, which were not situated within its jurisdiction. The contention is obviously erroneous. The same is rejected.

4. The second appeal is disposed of.

Judge.