

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

**SECOND APPEAL NO. 420 OF 2012
WITH
CIVIL APPLICATION NO. 7255 OF 2012**

1. Udhav Nanabhau Aher,
Age :- 48 years, Occupation
Agriculture, R/o Safepur,
Taluka and District Beed
2. Madhav Nanabhau Aher,
Age : 46 years, Occupation
Agriculture, R/o Safepur,
Taluka and District Beed.
3. Sahebrao Nanabhau Aher,
Age : 43 years, Occupation
Agriculture, R/o Safepur,
Taluka and District Beed.
4. Meerabai Balu Lokhande,
Age : 38 years, Occupation
Agriculture, R/o Sakhareborgaon,
Taluka and District Beed.
5. Madhurabai Nanabhau Aher,
Age : 83 years, Occupation
Household, R/o Safepur,
Taluka and District Beed. .. **APPELLANTS.**

VERSUS

1. Ramkavar Arjun Walke,
Age : 53 years, Occupation

Labour, R/o : Raulsgaon,
at present Manjarsumbha,
Taluka and District Beed.

2. Champabai Rajaram Lokhande,
Age : 55 years, Occupation
Agriculture, R/o Chakur,
Taluka and District Beed. .. **RESPONDENTS.**

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Mr.Satish M.Godsay, Advocate for the appellants.
Mr. S. S. Thombre, Advocate for the respondents.

CORAM : SANGITRAO S. PATIL, J.
DATE : 24th JULY, 2017

ORAL ORDER :

The appellants (original defendant Nos. 1 to 4 and 6) have preferred this appeal challenging the judgment and decree dated 02.04.2012 passed in Regular Civil Appeal No. 124 of 2010 by the learned District Judge-1 Beed, confirming the judgment and decree dated 19.08.2010 passed in Regular Civil Suit No. 300/2007 by the learned 10th Joint Civil Judge, Junior Division, Beed declaring 1/7th share each to the parties to the suit in the suit property.

02. The learned counsel for the appellants submits that, the original plaintiff, who is married sister of appellant Nos. 1 to 3, had a right to have share in the share of the deceased Nanabhau, who was her father. She was not entitled to have equal share to that of her brothers i.e. appellant Nos.1 to 3 in the entire ancestral and joint family property. However, the trial Court as well as the first appellate Court did not consider this legal position and have wrongly declared that she is entitled to have 1/7th share equal to that of appellant nos. 1 to 3 in the suit property. He, therefore, submits that this being a substantial question of law involved in the appeal, it may be admitted.

03. The learned counsel for the respondents submits that the suit property was not the ancestral property of the parties. It was the

self-acquired property of the deceased Nanabhau. Therefore, all the sons, daughters and widow of the deceased Nanabhau are entitled to have equal shares in the suit property.

4. Perused the judgment of the trial Court as well as that of the first appellate Court. There is a specific finding that the suit property was the separate property of the deceased Nanabhau. Consequently, the sons, daughters and the widow of the deceased Nanabhau were entitled to have equal shares therein. If that be so, the contention of the learned counsel for the appellants that respondent No. 1 was not entitled to have share equal to that of appellants No. 1 to 3 cannot be accepted. The concurrent findings of facts recorded by the trial Court and the first appellate Court need no interference. No substantial question of law is involved in the appeal. Hence, the order :

O R D E R

- i) The appeal is dismissed.
- ii) No costs.
- iii) Civil Application is disposed of.

Sd/-

[SANGITRAO S. PATIL, J.]

shp