

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

**CIVIL APPLICATION NO. 1831 OF 2016
IN
SECOND APPEAL NO. 1178 OF 2004
ALONGWITH
CIVIL APPLICATION NO. 779 OF 2015**

Shri Madhukar Baburao Tilekar & Anr. ...Applicants

In the matter between

Shri Balkrishna Baburao Tilekar & Anr. ...Appellants

vs.

Shri Baburao Sopana Tilekar (deceased) & Ors. ...Respondents

Mr.M.S. Athalye I/b. V.A. Shastry for Applicants.

CORAM : S.C. GUPTE, J.

1 MARCH 2017

P.C.:

Civil Application No.1831/2016 is for expeditious hearing of a second appeal admitted in 2005. The appeal is from a decree of dismissal in a suit for partition. The dismissal was on the ground that there was already a partition effected between the parties. Both courts below have come to concurrent findings of fact in this behalf and dismissed the suit.

2 It is submitted that all parties to the suit are senior citizens. It is submitted that Applicant (original Respondent No.1) is suffering from serious ailments and needs funds. It is submitted that in pursuance of an undertaking given to this court, it is not possible to transfer any part of the suit property.

3 On these facts, the hearing of the second appeal is expedited.

The appeal to come up for hearing in the week commencing from 3 April 2017. Civil Application No.1831 of 2016 is disposed of accordingly.

4 Since the hearing of the second appeal is expedited and it is ordered to be taken up for hearing, the Applicants do not press Civil Application No.779/2015, which is for modification of the undertaking given to this court by the Respondents. The civil application is, accordingly, dismissed, as not pressed.

(S.C. GUPTE, J.)