

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

**SECOND APPEAL NO.18 OF 2017
WITH
CIVIL APPLICATION NO. 46 OF 2017**

Smt. Mirabai Vishnu Salve And Others ... Appellants
Versus
Smt. Sharda Raghunath Salve And Another ... Respondents
.....
Mr. Prashant D. Patil for the Appellants.
Mr. R.N. Gite for Respondent No.1.
.....

CORAM : S.C. GUPTE, J.

DATE : 31 JANUARY 2017

P.C. :

. Heard learned Counsel for the parties.

2 This second appeal challenges the judgment and order passed by the Ad-hoc District Judge-1, Nasik in Civil Appeal No.163 of 2015. By the impugned judgment and order, the learned District Judge dismissed the appeal filed by the present Appellants and confirmed the judgment and decree passed by the Civil Judge, Junior Division, Nasik in a suit filed by the Respondent (original Plaintiff). In the suit, the Respondent prayed for partition and separate possession of joint family property. The property is admittedly a joint family property and the deceased Raghunath, through whom the Respondent claims, had a right in the suit property. What is, however, disputed by the Appellant (original Defendant) is that that the Respondent was not a legally wedded wife of Raghunath. Both the Courts

below have rendered a concurrent finding of the fact that the Respondent was married to Ragnath. The order of the First Appellate Court shows that the finding rendered on the relationship of husband and wife between Raghunath and the Respondent is based on oral evidence of the Respondent herself as well as two other witnesses, namely, Chandrakant Punjaji Ahire (PW-2) and Kashinath Gangaram Kardak (PW-3) and documentary evidence which is referred to in paragraph 12 of the impugned judgment and order of the learned District Judge. A perusal of the record and orders of the Courts below indicates that the conclusion as to the relationship of husband and wife between Raghunath and the Respondent rendered by the Courts below cannot be said to be a conclusion based on no evidence. It also cannot be said that some relevant or germane material was disregarded, or any irrelevant or non-germane material was considered, by the Courts below to arrive at the conclusion. The conclusion is clearly a possible conclusion supported by evidence and not vitiated for any reason of law. There is absolutely no merit in the second appeal and the same is dismissed. No order as to costs.

(S.C. GUPTE, J.)