

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

Second Appeal No.334 of 2008
(Smt. Vasantika w/o Wasudevrao Kapse v. Krishnarao s/o Uppasrao
Vanjari)

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

Smt. V.P. Thakre, Advocate for Appellant.

Coram : R.K. Deshpande, J.
Dated : 24th January, 2017

The Trial Court passed a decree for partition and separate possession of $\frac{1}{2}$ share of the plaintiff in the suit property. The lower Appellate Court has modified the said decree and it is held that the plaintiff would be entitled to $\frac{1}{4}^{\text{th}}$ share in the suit property and accordingly the decree for partition and separate possession is passed. Hence, the original plaintiff is before this Court claiming $\frac{1}{2}$ share in the suit property.

The plaintiff came before the Court with the case that the suit property was the self-acquired property of Upasrao, the father of the plaintiff and the defendant. Upasrao died in the year 1947 and was survived by his widow Tulsabai, the mother of the plaintiff and the defendant. The plaintiff is the daughter

and the defendant is the son of Upasrao. There is nothing produced on record to show that it was the self-acquired property of Upasrao. In the absence of any such proof, the lower Appellate Court has held that the plaintiff would be entitled to $1\frac{1}{2}$ share in the property in the hands of Tulsabai, the mother of the plaintiff and the defendant. Accordingly, the plaintiff is held entitled to $\frac{1}{4}$ th share in the entire suit property.

No substantial question of law arises for consideration. The second appeal is dismissed.

Judge.

Lanjewar