

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

Second Appeal No.511 of 2015
(Himmatrao Ruprao Bagade and others v. Sonabai wd/o Devidas Mukunde)

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

Shri M.V. Bute, Advocate for Appellants.
Shri Girish Kandhari, Advocate, holding for Dr. Anjan De,
Advocate for Respondent.

Coram : R.K. Deshpande, J.
Date : 19th January, 2017

The Trial Court dismissed the suit for partition and separate possession, whereas the lower Appellate Court has allowed the appeal, holding that the plaintiff has one-half share in the suit property, i.e. Survey No.13/3, admeasuring 2 H and 22 R of Village Kavasa, Tq. Akot, Dist. Akola. The order of partition of property has also been passed. The original defendant No.1 is before this Court in this second appeal.

The property was owned by Laxman, who had two sons, viz. Ruprao and Ratan. The facts on record indicate that there was a partition effected between two sons in the year 1941 and both were allotted half share. Anjanabai was the wife of Ruprao. Ruprao died on 3-11-1942, and Anjanabai was married to Ratan, the brother of Ruprao. Ratan died on 28-4-1970 and the names

of Anjanabai, Sonabai and Devidas were recorded. There is nothing on record to show that it was the self-acquired property of the appellant-defendant No.1Himmatrao. The lower Appellate Court has held that there was jointness in cultivation of land and the partition effected in the year 1941 lost its significance because of the marriage of Anjanabai with Ratan. Ratan was enjoying both the shares and after his death, Anjanabai was alive. In such a situation, the Court has passed a decree for partition and separate position.

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

Judge.

Lanjewar