

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

CIVIL APPLICATION NO. 3132 OF 2017
IN
SECOND APPEAL STAMP NO. 5756 OF 2015

Janardan Kadu Patil

...Applicant

Versus

Jagannath Kadu Patil and Ors.

...Respondents

Mr. Akram Inamdar, Advocate h/f Mr. S.S. Kazi, Advocate for
Applicant

Mr. A.J. Patil, Advocate for Respondent Nos. 1,2,3a to 3d,4,6/1-
a,6/2 to 6/5

CORAM : A.M. DHAVAL, J.

DATE: 23rd OCTOBER, 2018

ORAL ORDER :

1. In Special Civil Suit No. 252 of 2002, the plaintiff and defendant Nos. 1 to 6 were allotted 1/7th share each with the directions to effect partition as per shares and to hold inquiry of mesne profit. In the Appeal preferred by the defendants, Regular Civil Appeal No. 55 of 2014, the plaintiffs share has been increased from 1/49th to 8/49th. The shares of defendant Nos. 1, 2 and legal heirs of defendant Nos. 3 and 4 were also increased. Only share of defendant No. 6 - Sumanbai is decreased from 1/7th to 1/49th. Thus, defendant No.6 - Sumanbai alone can be said to be aggrieved party and she alone could have filed appeal and

since the plaintiff is not aggrieved, Second Appeal by him is not maintainable, and therefore, the application for condonation of delay also deserves not be considered. Hence, the civil application is disposed of as not tenable.

2. Any stay order if passed, stands vacated.

(A.M. DHAVALA)
JUDGE

mta