

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

**CIVIL APPLICATION NO.1679 OF 2017
IN
SECOND APPEAL NO.67 OF 2018**

Rajaram Malhari Shinde and Ors. ...Applicants
Versus
Manohar Rajaram Shinde and Ors. ...Respondents

.....

Mr. Girish Godbole with Mr. Akshay Petkar with Ms Shivani S. Samel in SA/67/2018 and cas/1679/2017.

Mr. Girish Godbole with Ms Ketki Gadkari I/b. Ms Nikita Jacob for the Respondent Nos.4A to 4C.

Mr. Narendra Sharma with Mr. Ganesh Patil for the Respondent Nos. 1 and 2 in SA/67/2018 and for the Respondent Nos.1 to 5 in SAST/33542/2017.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 20th DECEMBER, 2018.

P.C.:-

The Applicant herein has challenged the judgment and decreed dated 10.8.2018 whereby the learned District Judge-1, Malshiras has confirmed the judgment and decree dated 6th February, 2012 passed by the learned C.J.J.D., Malshiras in R.C.S. No.21 of 1997. By the said judgment dated 6th February, 2012, the learned C.J.S.D., Malshiras had decreed the suit as under:

“1. Plaintiff is entitled to get partition and separate possession of 1/3rd share in the suit properties

described in plaint para 1(a) i.e. field Gat No.219/1(a) and 219/1(b) situated at Deshmukhwadi.

2. Plaintiff's claim regarding the partition of properties situated at Shindewadi i.e. field Gat No.76/1 and 76/2 is dismissed.
3. The sale deed executed by Mahesh and Rajaram exceeding the 1/3rd share of Rajaram is not binding upon the plaintiff as well as defendant no.2 Sushila.
- 4 Defendant no.2 Sushila is also entitled to get partition and separate possession of 1/3rd share after depositing requisite Court fee.
5. Decree be sent to Collector of Solapur for effecting partition as per provisions of section 54 of the Code of Civil Procedure.
6. Preliminary decree be drawn up accordingly.

2. With consent of the parties following order is passed :-

Execution proceedings may go on but possession of the property shall not be handed over till disposal of the appeal or until further orders.

3. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)