

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

**SECOND APPEAL NO.336 OF 2018
WITH
CIVIL APPLICATION NO.749 OF 2018
IN
SECOND APPEAL NO.336 OF 2018**

Sou. Shakuntala Narayan Chandgude
& Ors. ...Appellants

Versus

Smt. Fulabai Rambhau Kharade &
Ors. ...Respondents

.....

Mr. K.D. Bhosale for the Appellants.
None for the Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 26th NOVEMBER, 2018.

P.C.:-

Heard Mr. K.D. Bhosale, the learned counsel for the Appellants. None present for the Respondents.

2. The Appellants have challenged the judgment dated 22nd August, 2017 whereby the learned District Judge -I, Baramati, has dismissed the Regular Civil Appeal No.198 of 2012 and thus confirmed the judgment and decree dated 2nd December, 2010 passed by the learned Joint Civil Judge, Junior Division, Baramati, District-Pune, in

Regular Civil Suit No.214 of 2005.

3. The Appellants had filed a suit for partition and declaration that the will executed by their father Rambhau was null and void. The Appellants had challenged the validity of the will on a specific plea that their father-Rambhau was not physically fit and that he was not competent to execute the will. It was alleged that the Respondents had got the said will executed by exercising undue influence, force and by misrepresentation. The learned Trial Judge after considering the evidence has recorded a categorical finding that the Appellants have failed to prove that the deceased Rambhau was not physically fit to execute the will and the will was executed under undue influence, coercion or misrepresentation. The learned Appellate Court upon appreciating the evidence on record has recorded findings that said Rambhau was a sole surviving co-parcener and was competent to alienate the suit property. The learned District Judge has held that the Appellants/Plaintiffs had proved that the will is genuine, legal and valid document.

4. The Appellants have challenged these findings on facts without raising any substantial question of law. Hence, the Appeal has no merits and is accordingly dismissed.

5. The civil application stands disposed of in view of dismissal of the Appeal.

(SMT. ANUJA PRABHUDESSAI, J.)