

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 312 OF 2011****IN****SECOND APPEAL NO. 712 OF 2016****Anandrao Mahadeo Mohite****..... Appellant/
Applicant****VERSUS****Tanubai yashavant Shendage and Ors.****..... Respondents**

Ms. Pooja Khandeparkar a/w Ms. Shweta Singh i/by Mr. G.C. Singh
for the Appellant/Applicant.

Mr. S. P. Chavan for the Respondent No.2-A.

No records and proceedings.

CORAM : R.D. DHANUKA, J.**DATE : 23rd SEPTEMBER, 2019****P.C.**

By a separate order passed by this court in the second appeal, the said second appeal has been admitted on the substantial questions of law formulated by this court. By the impugned judgment, the trial court has directed all the defendants to handover half share of the plaintiffs in the suit property for effecting partition through the collector. In my *prima facie* view, there is inconsistency in the findings rendered by the learned trial court in paragraph 17 in one hand and paragraph 20 and the operative part of the judgment and decree which has been upheld by the First Appellate Court. The decree passed by the trial court thus cannot be implemented as it is. Civil application is accordingly allowed in terms of prayer clause (a). No order as to costs. Hearing of the second appeal is expedited.

[R.D.DHANUKA, J.]