

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

**SECOND APPEAL NO.716 OF 2015
WITH
CIVIL APPLICATION NO.1543 OF 2015
WITH
CIVIL APPLICATION NO.1820 OF 2015**

Shri Vishwanath S. Risawade
and Anr.

... Appellants

Vs

Sou. Vimal S. Solapure
(Through POA Shri Sunil S.
Shivrudra Solapure) and Ors.

... Respondents

...

Mr. Umesh H. Pawar for the Appellants.

**CORAM : SANDEEP K. SHINDE J.
DATE : 7 FEBRUARY, 2019**

P.C. :

Heard learned counsel for the appellants.

2 Appellants were the defendants in the suit for partition being Regular Civil Suit No.462 of 1993. Out of four suit properties, two properties namely, 653/A and 653/B were not subjected to partition being self acquired properties. The suit was resisted by the

defendants also on the ground of non-rejoinder of necessary party. It was contended by the defendants that their sister by name 'Kamal' was not impleaded as party to the suit. Courts below rendered finding of fact that soon after her marriage, she died leaving behind none to succeed her interest. It is held by the Courts below that defendants did not lead evidence to establish that their sister Kamal was survived by sons or daughters and, therefore, it was held that pedigree/geneology is proved by the plaintiff.

3 After perusing the judgments of the Courts below, finding of fact recorded by the Courts below is consistent with the evidence. Appeal does not give rise to any substantial question of law. The appeal is, therefore, dismissed. Since the appeal itself is dismissed, nothing survives in the civil applications therein and the same are also disposed of.

(SANDEEP K. SHINDE, J.)