

SECOND APPEAL NO.564 OF 2017

suit and declared that the Plaintiff and the Defendant Nos.2 and 3 were entitled for $1/4^{\text{th}}$ share in the suit property whereas the Defendant Nos.1A to 1D were collectively having $1/4^{\text{th}}$ share in the suit property. Said judgment and decree was challenged by the Plaintiff in Regular Civil Appeal No.491 of 2012. By judgment dated 13/9/2016 the first Appellate Court modified the judgment and decree passed by the Trial Court and held that the Plaintiff is entitled for $7/16$ share in the suit properties, Defendant Nos.1A to 1D collectively entitled to $3/16^{\text{th}}$ share and Defendant Nos. 2 and 3 were entitled to claim $3/16^{\text{th}}$ share each. Aggrieved by the said judgment, Defendant Nos.1A to 1D have filed the second appeal.

4. The learned counsel for the Appellant as well as the Respondent Nos.1 to 3 have stated that the Respondent Nos.4 to 11 have not contested the proceedings before the Trial Court and that they are not contesting parties. They have stated that the dispute is basically between the Respondent No.1 being the Plaintiff, Appellants being Defendant Nos.1A to 1D and the Respondent Nos.2 and 3 being Defendant Nos.2 and 3. The learned counsel representing the Plaintiff, the Defendant Nos. 1A to 1D and the Defendant Nos.2 and 3 have stated that the parties have arrived at amicable settlement. They have

placed on record the consent terms alongwith the sketch, which read thus:

“The parties have settled the matter in terms of Consent Terms as under:-

1 That the Appellant filed appeal against Judgment and Decree dated 13.09.2016 passed by District Judge – 1, Satara at Satara in Reg. Civil Appeal No. 491 of 2012. The said appeal filed by Respondent No. 1 challenging the Judgment and Decree dated 22/10/2012 passed by Civil Judge Junior Division, Satara in Regular Civil Suit No. 321 of 2011.

2 That the Appellant is original Defendant No. 1 deceased through legal representatives Defendant Nos. 1A to 1D in Regular Civil Suit No. 321 of 2011. Respondent No. 1 is original Plaintiff in the said Regular Civil Suit No. 321 of 2011. Respondent Nos. 2 and 3 are the original Defendant Nos. 2 and 3 in Regular Civil Suit No. 321 of 2011. And Respondent No. 4 is original Defendant No. 4 in Regular Civil Suit No. 321 of 2011. Original Plaintiff is brother of deceased Defendant No. 1 Putlabai and Defendant Nos. 2 and 3. Defendant No. 4 is purchased 0 H 05 Ara out of suit property Gat No. 909 with the consent of Plaintiff and Defendant Nos. 1 to 3, hence he made party to the original suit. Respondent Nos. 5 to 11 are made party to the original suit as they are co-owners of the some of the suit properties, but they are not related to the joint family of Plaintiff and Defendant Nos. 1 to 3. The Respondent Nos. 4 to 11 through served in suit, they failed to appear and contest the suit. Therefore, the suit proceeded ex-parte against them.

3 That the Plaintiff and Defendant Nos. 1 to 3 are from the same family and they are bold related to each other. That the Plaintiff and Defendant Nos. 1A to 1D, 2 and 3 with intention to keep harmony and love in their relegations decide to settle the dispute amicably. Hence Plaintiff and

Defendant amicably partitioned the suit property by meats and bounds. So also allotted the share of the suit property as per partition as under:

A Agricultural Land

i) That the agricultural land situated at Village Nagthane bearing Gat No. 909 area 1 H 73 Aras Pot Kharab 0 H 07 Aras assessment Rs.2-64 which has been measured through expert in presence of Plaintiff and Defendants and map of sub-division prepared. The said Gat No. 909 divided into 10 Plots for convenient cultivation and allotted as under:-

Gat No. 909 Hissa No.	Area	Name of person allotted the Share
1	0 H 33.75 Ara	Defendant Nos. 1A to 1D Gokul Waman Godase, Shilabai Murlidhar Bagal, Sadhana Baburao Pawar, Ratana Vasant @ Prafull Mane
2	0 H 25.30 Ara	Defendant No. 2 Krushnabai Shamrao Kenjale
3	0 H 25.30	Defendant No. 3 Chaturabai Vishwas Kenjale
4	0 H 50.65	Plaintiff Arjun Bandu Salunkhe
5	0 H 08.50 Ara	Defendant Nos. 1A to 1D Gokul Waman Godase, Shilabai Murlidhar Bagal, Sadhana Baburao Pawar, Ratana Vasant @ Prafull Mane
6	0 H 06.37	Defendant No. 2 Krushnabai Shamrao Kenjale
7	0 H 06.37 Aras	Defendant No. 3 Chaturabai Vishwas Kenjale
8	0 H 12.75 Aras	Plaintiff Arjun Bandu Salunkhe
9	0 H 05 Aras	Defendant No. 4 Sunil Narayan Salunkhe purchaser
10	0 H 05 Aras	Common Road for access to

		Plaintiff and Defendant to their respective share
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That the map of Gat No. 909 prepared in presence of Plaintiff and Defendant Nos. 1A to 4 by expert is attached with present settlement deed and same is part and parcel of the present pursis. The said map clearly shows shares of Plaintiff and Defendant Nos. 1A to 4.

ii) Agricultural Land situated at Nagthane bearing Gat No. 361 area 0 H 26 Aras out of West side 8 Anna share allotted to the share of Plaintiff Arjun Bandu Salunkhe.

iii) Agricultural Land situated at Nagthane bearing Gat No. 799 area 0 H 22 Aras allotted to the share of Defendant No. 2 Krushnabai Shamrao Kenjale and Defendant No. 3 Chaturabai Vishwas Kenjale to the extent of 8 Anna Share each.

iv) Agricultural Land situated at Nagthane bearing Gat No. 1078 area 0 H 06 Aras allotted to the share of Defendant Nos. 1A to 1D Gokul Waman Godase, Shilabai Murlidhar Bagal, Sadhana Baburao Pawar, Ratana Vasant @ Prafull Mane.

v) Agricultural Land situated at Nagthane bearing Gat No. 1091 area 0 H 05 Aras allotted to the share of Defendant No. 1A to 1D Gokul Waman Godase, Shilabai Murlidhar Bagal, Sadhana Baburao Pawar, Ratna Vasant @ Prafull Mane.

B House properties

That the house properties which are described in Plaint para 1B, 1C, 1D and 1E are allotted as under:-

Sr. No.	CTS No. / Milkat No.	Description	Name of person allotted share
1	1052	Open Plot	Plaintiff Arjun Bandu Salunkhe
2	1051/1 it CTS	Shed	Plaintiff Arjun Bandu Salunkhe

	No. 1051		
3	132	Open plot	Plaintiff Arjun Bandu Salunkhe
4	128	Old House	Defendant Nos. 1A to 1D Gokul Waman Godase, Shilabai Murlidhar Bagal, Sadhana Baburao Pawar, Ratana Vasant @ Prafull Mane, Defendant No. 2 Krushnabai Shamrao Kenjale, Defendat No. 3 Chaturabai Vishwas Kenjale

That the Defendant Nos. 1A to 1D, Defendant No. 2 and Defendant No. 3 having equal share in Milkat No. 132 and 128.

4 That the Plaintiff and Defendant compromised the original suit bearing Regular Civil Suit No. 321 of 2011 as above. As per partition Plaintiff and Defendants put into possession of their respective share.

5 That the Plaintiff and Defendants will enjoy their respective share as owner and possessor. That the Plaintiff and Defendants will not disturb each other's possession.

6 That the Plaintiff and Defendant Nos. 1A to 1D, 2 and 3 mutually agreed the above terms and conditions. That the original suit be decreed in above mentioned terms so also decree be drawn accordingly."

5. The consent terms and the sketch annexed to the consent terms are signed by the Appellants and Respondent Nos.1 to 3 and

their respective counsel. The Appellants and the Respondent Nos.1 to 3 are present before the Court and are identified by their respective counsel. The Appellants and the Respondent Nos.1 to 3 state that they have settled the matter amicably and that the terms are read over and explained to them and that the same are agreeable to them. The consent terms and plan are taken on record and marked 'X' for identification. The statements are accepted as undertaking to the Court.

6. The Appeal is disposed of as per the consent terms filed by the parties. Decree be drawn as per the consent terms.

(SMT. ANUJA PRABHUDESSAI, J.)