

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

**SECOND APPEAL NO.617 OF 2016
WITH
CIVIL APPLICATION NO.2058 OF 2015**

Shri Vasant N. Beknalkar ... Appellant

Vs

Shri Ashok N. Beknalkar & Ors. ... Respondents

...

Mr. S.S.Patwardhan for the Appellant.

Mr. A.M.Adagule for the Respondent No.1, 3(i) to 3(iv).

Mr. Ashok M. Misal for Respondent Nos.2A and 2B.

CORAM : SANDEEP K. SHINDE J.

DATE : 4 FEBRUARY, 2019

P.C. :

Heard learned counsel for the parties.

2 Perused the judgments in the cases of **Danamma alias Suman Surpur and another v. Amar and Others¹** and **Prakash and Others v. Phulavati and Others²**. There is conflict of opinion in the aforesaid two judgments regarding interpretation of Section 6 of the Hindu Succession Act, 1966 and, therefore, in the case of **Vinita Sharma v. Rakesh Sharma Civil Appeal Diary No(s).32601 of 2018**, the issue has been referred to larger bench.

¹ 2018(3)Mh.L.J.

² (2016) 2 Supreme Court Cases 36

3 In view of this, the present appeal gives rise to
substantial question of law on the following ground:

“(c) Whether partition effected between plaintiff respondent no.1 herein and defendant no.1 appellant herein in pursuance of judgment and decree dated 7/3/2000 passed by learned Trial Court is partition for the purposes of sub section 5 of section 6 of Hindu Succession Act, 1956 as amended by Hindu Succession (Amendment) Act, 2005 (Act 39 of 2005) which has come into effect on 9/9/2005 ?”

4 **Admit.**

5 Call records and proceedings from the trial Court.

6 Mr. Misal waives service on behalf of the Respondent
Nos.2A and 2B.

7 Mr. Adagule waives service on behalf of the Respondent
Nos.1, 3(1), 3(2), 3(3) and 3(4). Other respondents are served but
not present.

8 Liberty is granted to the parties to apply for final hearing
after larger bench renders its decision on the controversy.

(SANDEEP K. SHINDE, J.)

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Shri Vasant N. Beknalkar ... Applicant
Vs
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...

Mr. S.S.Patwardhan for the Appellant/Applicant.
Mr. A.M.Adagule for the Respondent No.1, 3(i) to 3(iv).
Mr. Ashok M. Misal for Respondent Nos.2A and 2B.

**CORAM : SANDEEP K. SHINDE J.
DATE : 4 FEBRUARY, 2019**

P.C. :

Heard learned counsel for the parties.

2 It is against the decree of partition, the present appeal is admitted by this Court today on the substantial question of law.

3 In view of this, process of partition may go on but actual possession is deferred and stayed till the disposal of this appeal.

(SANDEEP K. SHINDE, J.)