

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

SECOND APPEAL NO. 720 OF 2018

Mahadeo Rajaram Petkar and another	... Appellants
Versus	
Mahesh Bapurao Petkar and others	... Respondents

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Mr. P. S. Dani, Senior Advocate a/w Mr. Vaibhav R. Gaikwad for Appellants.
Mr. S.G. Deshmukh i/b Mr. Dilip B. Shinde for Respondent No.4.

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CORAM : SANDEEP K. SHINDE, J.

DATE : 26th FEBRUARY, 2019.

P. C.:

1. Heard learned Counsel for the parties.
2. The appeal is ***admitted*** on the following substantial questions of law :

- (i) Whether the Plaintiff Nos. 3 and 4 was having right in the suit land when admittedly Pandurang was died in the year 1943 prior to came into existence Hindu Succession Act, 1956?
- (ii) Whether the Plaintiffs sufficiently prove that the joint family property i.e. Survey No.751 was having sufficient nucleus to purchase the land bearing Survey No.752? And whether the Plaintiffs prove that the Survey No.752 purchased

from income of joint family property? Whether initial burden sufficient discharged by the Plaintiff?

- (iii) Whether both the Courts below ought to have considered that Rajaram was working as a Teacher and he purchased Survey No.752 from his own income and not from the income of joint family property?

3. Call for the record and proceedings.
4. The appellants are directed to file paper-book within a period of four months from today.
5. The appellants are at liberty to file application for fixing date of final hearing of appeal, taking into consideration the advance age of the parties, after filing of the paper-book.

(SANDEEP K. SHINDE, J.)

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

**CIVIL APPLICATION NO. 1629 OF 2018
IN
SECOND APPEAL NO. 720 OF 2018**

Mahadeo Rajaram Petkar and another ... Applicants
Versus

Mahesh Bapurao Petkar and others ... Respondents

....

Mr. P. S. Dani, Senior Advocate a/w Mr. Vaibhav R. Gaikwad for Applicants.

Mr. S.G. Deshmukh i/b Mr. Dilip B. Shinde for Respondent No.4.

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CORAM : SANDEEP K. SHINDE, J.

DATE : 26th FEBRUARY, 2019.

P. C.:

1. Heard learned Counsel for the parties.
2. That, against the decree of partition defendant Nos. 1 and 2 have preferred this Second Appeal. I have admitted the Second Appeal on the substantial questions of law. In view of this, execution proceedings in the subject decree may go on, however, actual possession of the suit property is deferred till further orders.
3. Civil application is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)