

BDP-SPS

Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.612 OF 2016
ALONGWITH
CIVIL APPLICATION NO.1627 OF 2014
IN
SECOND APPEAL NO.612 OF 2016**

Shantabai Shripathi Ombale and Anr. Appellants.
V/s
Chandrabai Vitthal Ombale and Ors. Respondents.

**ALONGWITH
SECOND APPEAL NO.616 OF 2016
ALONGWITH
CIVIL APPLICATION NO.1604 OF 2014
IN
SECOND APPEAL NO.616 OF 2016**

Shantabai Shripathi Ombale and Anr. Appellants.
V/s
Chandrabai Vitthal Ombale and Ors. Respondents.

Mr. Satyajeet A. Rajeshirke for the Appellants.
Mr. Sandeep Koregave for Respondent No.1, 2(B) to 2(I).
Mr. Rahul Vijaymane for Respondent No.3(A) to 3(E)(iii)
None for Respondent No.4.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 15, 2020

P.C.:-

1] Leave to amend granted. Amendment be carried out forthwith.

2] Appellants herein are original Defendant Nos. 4 and 5 in whose favour Gift Deed was executed which was subject matter of challenge in a suit. Alongwith challenge to the Gift Deed, partition was also sought. Suit was partly decreed to the extent of claim for partition, whereas lower Appellate Court while allowing the appeal preferred by the original Plaintiffs, decreed the suit in toto. As such, these second appeals.

3] Appellants are represented by Power of Attorney holder viz. Mr. Laxman who is a son of Appellants. Respondent No.1 is represented through Power of Attorney holder Mr. Nitin. True copies of these Power of Attorneys are assured to be placed on record within one week from today.

4] Respondent Nos. 2B, 2C, 2D, 2E, 2F, 2G and 2H and 2I are personally present in Court and are identified by their Counsel Mr. Sandeep Koregave. He assures that true copies of their identity cards will be placed on record within one week. He has verified their original identity cards. Respondent Nos. 3A to 3E(iii) so did Power of Attorney holder of Respondent Nos. 3E(i), 3E(iii) are personally

present in Court.

5] I am informed that parties are in relation to each other. Parties have entered into settlement so as to avoid further conflict. This Court is satisfied that there are bonafide intention *inter se* between parties to settle the dispute and they have reached to a lawful agreement. As such, an agreement in the form of Consent Terms duly signed by the parties is hereby ordered to be recorded.

6] Accordingly, in both these second appeals, as parties have arrived at consensus as stated above, they have tendered in Court Consent Terms duly signed by them. Parties are personally present in Court. Respondent No. 3E(ii) having power of Attorney for Respondent Nos. 3E(i) and 3E(iii) also admits to the contents of the Consent Terms.

7] Even if Consent Terms are reduced in writing in English language, this Court put the contents thereof to each of the parties present in Court in vernacular i.e. in Marathi and they have understood the contents and stood by what has been stated in the

Consent Terms and agreed to the share that has been allocated by virtue of the Consent Terms.

8] In view of above, Consent Terms are accepted. Decree be drawn in terms of Consent Terms pursuant to provisions of Order XXIII Rule 3 of Civil Procedure Code.

9] Both these Appeals stand disposed of in terms of the Consent Terms which are taken on record and marked “X” for the purpose of identification. As a consequence, Civil Application No.1627 of 2014 taken out in Second Appeal No.612 of 2016 and Civil Application No.1604 of 2014 taken out in Second Appeal No.616 of 2016 do not survive and the same are also disposed of.

(NITIN W. SAMBRE, J.)