

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 SECOND APPEAL NO.385 OF 2021
WITH CA/9032/2021 IN SA/385/2021

TULSABAI RADHAKISAN SABLE
VERSUS
SURESH SITARAM SABLE AND OTHERS

...
Advocate for Appellant : Mr. Gaikawad Pandurang M.
Advocate for Respondent No.1 : Mr. G. K. Muneshwar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 02.12.2021

ORDER :-

. Parties have arrived at compromise. Present appellant is the original defendant No.3. Present respondent No.1 is the original plaintiff, who had filed Regular Civil Suit No.110 of 2004 before learned Joint Civil Judge Junior Division, Bhokardan, Dist. Jalna for declaration and perpetual injunction. The suit was decreed on 26.03.2012. Thereafter, the present appellant – original defendant No.3 filed Regular Civil Appeal No.71 of 2012 and it came to be dismissed by learned Adhoc District Judge-3, Jalna on 24.08.2017. The second appeal was filed challenging the concurrent findings. It is to be noted that the Trial Court, while decreeing the suit had declared that the plaintiff is the owner of 2 H land in Gut No.235 situated at village Nanja, Tq.

Bhokardan, Dist. Jalna and the consequential prayer of injunction was allowed. Now, by way of compromise, it has been contended that original defendant Nos.1 and 2 are not necessary parties and they be deleted. Thereafter, the appellant and respondent No.1 have agreed and consented that the suit land was purchased solely by one Radhakisan Sable in the name of respondent No.1 and himself. It is then stated that the appellant through Radhakisan and Suresh have equal share and it appears that they have partitioned the same in view of clause No.3 of the terms. It is to be noted that the Trial Court had declared only the plaintiff as the sole owner of 2 H land from Gut No.235 and now the division is made of 1 H each between the appellant and the respondent No.1. Under such circumstance, in view of Maharashtra Amendment to Section 17 of the Indian Registration Act, the consent terms deserves to be registered. In view of the same, following order is passed :-:-

ORDER

- I) The Second Appeal stands partly allowed.
- II) The judgment and decree passed by learned Civil Judge Junior Division, Bhokardan, Dist. Jalna in Regular Civil Suit No.110 of 2004 on 26.03.2012 and the judgment and decree passed in Regular Civil Appeal No.71 of 2012 by learned Adhoc

District Judge-3, Jalna on 24.08.2017 are hereby set aside. Regular Civil Suit No.110 of 2004 stands decreed in terms of compromise terms Exhibit- 'X'.

III) The decree be drawn accordingly. The decree so drawn be sent to Sub Registrar, Bhokardan, Dist. Jalna or any competent authority under the Indian Registration Act having jurisdiction over the lands situated in village Nanja, Tq. Bhokardan, Dist. Jalna for its registration, if any, as per the law.

IV) Civil application No.9032 of 2021 stands disposed of.

[SMT. VIBHA KANKANWADI, J.]

scm