

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 SECOND APPEAL NO.85 OF 2022
WITH CA/2342/2022 IN SA/85/2022

MHATARDEO KESHAV SHINDE AND ANOTHER
VERSUS
MAHADEV KESHAV SHINDE AND ORS.

...
Advocate for Appellants : Mr. Bedre Vinayak Sudhakar
Advocate for the respondent no. 1 : Mrs. Charuta S. Deshmukh
...

CORAM : MANGESH S. PATIL, J.

DATE : 15 MARCH 2022

PC :

Heard both the sides.

2. Though there are concurrent findings of the courts below, the second appeal is admitted on the following substantial questions of law :

- I) Whether the courts below were justified in casting burden on the appellants - defendants and deceased defendant no. 1 - Keshav of proving that some of the suit properties were acquired by them by their separate source of income particularly when neither in the plaint nor in his examination-in-chief, the respondent no. 1 - plaintiff had averred and deposed about those properties having been acquired from the nucleus of the family, namely, the property Gat no. 573/4 ?

- II) Whether the courts below have committed gross error or gross perversity in appreciating the evidence ?
3. In view of admission of the appeal, the execution may go on except actual delivery of possession, till decision of the second appeal.
4. Civil application no. 2342 of 2022 is disposed of.

[MANGESH S. PATIL]
JUDGE

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