

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**1 SECOND APPEAL NO.198 OF 2003
WITH CA/2310/2015 IN SA/198/2003 WITH CA/3013/2006 IN
SA/198/2003 WITH SA/197/2003 WITH CA/1133/2015 IN
SA/198/2003 WITH CA/1733/2007 IN SA/198/2003 WITH
CA/1838/2003 IN SA/197/2003 WITH CA/1839/2003 IN SA/198/2003
WITH CA/14241/2011 IN SA/198/2003 WITH CA/3034/2013 IN
SA/198/2003 WITH CA/3068/2008 IN SA/198/2003 WITH
CA/3368/2004 IN SA/198/2003 WITH CA/3369/2004 IN SA/198/2003
WITH CA/3370/2004 IN SA/198/2003**

SHAIKH MEHMOOD SK MAHBOOB DECEASED THOROUGH LR and OR
VERSUS
ZOHARABI ABDUL LATIF and ORS

...

Advocate for Appellants in both appeals : Mr. Parag Barde
Advocate for respondent no.12 : Mr. M. S. Deshmukh & Mr. U.L. Momale
Advocate for LR's of respondent no. 2 : Mr. S. S. Gangakhedkar

...

**CORAM : RAJESH S. PATIL, J.
DATE : OCTOBER 18, 2022**

PER COURT : -

1. The present proceedings arise out of the suit filed by original plaintiff for partition and separate possession of her share to the extent of six (06) acres of land out of Land Survey No. 91 of Village Satara, Dist. Aurangabad. The said suit was dismissed by Judgment and Order dated 20.12.1996 by Civil Judge Junior Division, Aurangabad. The original plaintiff then preferred Reg. Civil Appeal No. 25/1997 and second Reg. Civil Appeal No. 312/2002 was preferred by original defendant no. 6. Both the appeals were heard together and by a common judgment, the appeals were allowed by judgment and order

dated 15.01.2003 by the Addl. Sessions Judge, Aurangabad. Pursuant to which plaintiff as well as legal heirs of Amirabee were declared as entitled to 1/6th share in the suit land by way of partition. Being dissatisfied with the said judgment and order of the appellate Court, the present second appeals are filed by original defendant no. 1.

2. Today the learned advocate Mr. S. S. Gangakhedkar appearing for legal heirs of respondent no. 2 has filed affidavits on record of eight persons. According to him, all of them are today present in the court. In the said affidavits, they have specifically mentioned that they have received money from subsequent purchaser towards full and final settlement in the second appeal. So also they have stated that they are relinquishing and releasing all their rights in favour of original appellant in the second appeals and the subsequent purchasers. They also further state that they will not claim anything from the said proceedings in future. They also state that they will withdraw all the civil applications filed at their behest in Second Appeal Nos. 197 of 2003 and 198 of 2003. So also they have further stated that they also grant consent for vacating interim relief which was granted at their behest in Civil Application No. 6785/2011 on 18.10.2011 and in Review Application No. 239/2011 on 10.08.2012. All the eight (08) affidavits are taken on record and marked as Exh. "A".

3. Accordingly, the applications viz. Civil Application No. 2310/2015 in Second Appeal No. 198/2003, Civil Application No. 14241/2011 in Second Appeal No. 198/2003 and Civil Application No. 3034/2013 in Second Appeal No. 198/2003 filed by the legal heirs of respondent no. 2 – Smt. Khatoonbi w/o Khaja Miyan in Second Appeal No. 198/2003 are **disposed off** as withdrawn in terms of Annexure “A”. Pending civil application, if any, filed on behalf of the said legal heirs stands disposed off.

4. Civil Application No. 1133/2015 in Second Appeal No. 198/2003 is filed by one Laxmireman Mahantrappa Wadkar for vacating order dated 18.10.2011 passed in Civil Application No. 6785/2011 in Second Appeal No. 198/2003 and order dated 10.08.2012 passed in Review Application No. 239/2011. In view of the order passed today pursuant to the affidavits filed by the legal heirs of respondent no. 2, this Civil Application No. 1133/2015 becomes infructuous and same is accordingly **disposed off**.

[RAJESH S. PATIL]
JUDGE