

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.259 OF 2018
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO.111 OF 2022
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO.112 OF 2022
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO. 1561 OF 2018
IN
SECOND APPEAL NO. 301 OF 2011
WITH
CIVIL APPLICATION NO.260 OF 2018
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO. 261 OF 2018
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO.110 OF 2022
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO.114 OF 2022
IN
SECOND APPEAL NO.301 OF 2011
WITH
CIVIL APPLICATION NO.113 OF 2022
IN
SECOND APPEAL NO.301 OF 2011

**WITH
CIVIL APPLICATION NO.109 OF 2022
IN
SECOND APPEAL NO.301 OF 2011**

Rajaram Tulashiram Mhaske (dead)
1A. Lilabai Rajaram Mhaske & Ors.

....Applicants/
Appellants.

V/s

Raghunath Bapu Mhatre (dead)
through LRs Smt. Sranga Raghunath Mhaske
and Ors.

..... Respondents.

Mr. Rajesh S. Datar for the Applicant in all the above Civil Applications and for original Appellant in Second Appeal.
Mr. Dhananjay Rananaware for Respondent Nos.1A to 1F and 4.

CORAM: NITIN W. SAMBRE, J.

DATE: 12th OCTOBER, 2022

P.C.:-

1] Second Appeal is ordered to be abated on 22nd July, 2014 against Respondent Nos. 5, 7, 8, 9, 12, 13, 14. Present Applications for restoration are taken out and notices are ordered. Notices remained unserved on non-applicants for prayer of restoration. During scanning of the record, it is noticed that main Appeal itself was dismissed against Respondent Nos. 5 to 17. As a sequel of above, partition decree which is a subject matter of challenge in the Second Appeal has attained finality to the extent of aforesaid Respondents i.e. Respondent Nos. 5 to 17.

2] Though Mr. Datar, Counsel for original Appellant would urge that in the capacity of Defendant, he has set up a defense of self-acquired property being Survey No.161/3 which was duly endorsed and accepted by the Trial Court and upset by the lower Appellate Court, fact remains that even if Appeal of the present Appellant is allowed, shares of other co-sharers will be disturbed, including that of the present Applicants.

3] In the aforesaid backdrop, present Applications for restoration are not maintainable. As such , Applications stand disposed of.

4] However, this will not preclude the Applicants from taking out fresh proceedings for restoration of Appeal by setting aside the order dated 18th July, 2012, so also other necessary steps to be taken for restoration.

(NITIN W. SAMBRE, J.)