

Arun Mudaliyar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.247 OF 2018
WITH
SECOND APPEAL NO.481 OF 2018
WITH
CIVIL APPLICATION NO.566 OF 2018**

Namdeo Dattoba Dhavan ... Appellants
since deceased through Lrs.
Indubai w/o. Namdeo Dhavan & Anr.

V/s.
Chhaya w/o. Vasant Rao Dhavan & Anr. ... Respondents

**WITH
CIVIL APPLICATION NO.1684 OF 2018**

Chhaya w/o. Vasant Rao Dhavan & Anr.
V/s.
Namdeo Dattoba Dhavan
since deceased through Lrs.
Indubai w/o. Namdeo Dhavan & Anr.

Mr. Rahul Sudhakar Kulkarni, Advocate for the Appellants (VP not
filed).

Mr. Chetan G. Patil, Advocate for Respondent No.1

CORAM : S. M. MODAK, J.

DATED : 29TH AUGUST 2022.

P.C:-

1. Heard learned Advocate for the appellants in both the appeals
and learned Advocate for Respondent No.1. This Court has admitted

the appeal on 08th October 2018. After hearing the learned Advocate for appellants and learned Advocate for Respondent No.1. It seems that notice was issued to respondent no.2 Smt. Pramila Vasantrao Dhavan. Now, the appellants wants to delete the name of respondent no.2 from the array of respondents.

2. It is submitted that respondent no.2 Pramila Vasantrao Dhavan was not original party in the partition suit but she has appeared on her own claiming to be the wife of deceased Vasantrao Dhavan. She participated in the suit. However, her claim was not accepted.

3. It is submitted that the first appeal was preferred by the appellants herein. In that appeal also she has not appeared. The First Appellate Court has referred to this fact in paragraph 5 of the judgment in R.C.A. No.102 of 2013. The said judgment is challenged by way of Second Appeal No.247 of 2018.

4. The request for deleting her name is made on the background that the other parties have settled the dispute by entering into consent terms. For the facts mentioned above, the appellants are permitted to delete her name. Amendment be carried forthwith in both the appeals.

5. The learned Counsel for the both the parties filed consent terms is taken on record. Marked as Annexure 'A'. It is signed by Appellant No.2 for herself and Power of Attorney Holder of mother Appellant no.1 and also signed by Power of Attorney Holder of Respondent no.1. My attention is invited to para 4(a) of said Consent Terms. As per that clause, the appellants have accepted the judgment of the Trial Court

and as confirmed by the First Appellate Court.

6. The Second Appeal No.247 of 2018 is preferred in a suit in which there is preliminary decree for partition. Whereas, Second Appeal No.481 of 2018 is preferred in a proceedings arising out of the final decree.

7. The consent terms is taken on record. Appellant no.2 is present and Power of Attorney Holder of Respondent no.1 is present. Consent Terms is marked as 'X' for identification. In view of the consent terms both the appeals stands disposed of.

8. Interim Application /Civil Application, if any, stands disposed of.

9. Both the parties have agreed to act as per the consent terms.

(S. M. MODAK, J.)