

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 518 OF 2021
WITH
CIVIL APPLICATION NO. 5330 OF 2021
IN
SECOND APPEAL NO. 518 OF 2021

Dagdu Gyana Bawanche and Anr. ... Appellants
Versus
Rasika Nagorao Mankari and Anr. ... Respondents

...
Mr. M.G. Biradar – Advocate for Appellants
Mr. R.R. Deshmukh – Advocate for Respondent Nos.1 and 2
....

CORAM : GAURI GODSE, J.
DATE : 3rd February, 2023

PER COURT :

1. Heard.
2. The Second Appeal is admitted on the following substantial question of law :
 - a. Whether the first appellate court has failed to take into consideration the share of deceased Sundarabai, while calculating the shares of the parties ?
3. Mr. R.R. Deshmukh – learned counsel appearing on behalf of respondent nos.1 and 2 waive service.
4. Call for record and proceedings.

5. Printing is dispensed with.
6. The appellants to file private paper book containing judgments of both the courts, first appeal memo, pleadings, notes of evidence and exhibited documents, within a period of one year from today.

CIVIL APPLICATION NO. 5330 OF 2021

7. This application is filed for stay to the execution and operation of the impugned decree. The Second Appeal is already admitted. The impugned decree is with respect to the partition of the suit property. Hence, during the pendency of the appeal, final decree proceedings to continue. However, by way of interim relief handing over of actual physical possession is stayed, during the pendency of Second Appeal.
8. Appellant will not create any third party interest and not part with possession during the pendency of the Second Appeal in respect of the suit property.
9. The Civil Application is disposed of in above terms.

**[GAURI GODSE]
JUDGE**