

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

925 SECOND APPEAL NO.434 OF 2023

VASANTRAO VENKATESH DESHMUKH DIED THROUGH LRS
VARSHA @ SUSHILA VASANTRAO DESHMUKH AND OTHERS
VERSUS
SHAMRAO VENKATESH DESHMUKH AND OTHERS

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Advocate for Appellants : Mr. Karpe Rahul R.

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CORAM : S. G. MEHARE, J.
DATE : 01.09.2023

PER COURT :-

1. Heard the learned counsel for the appellants.
2. It is a case between two brothers, who were fighting over the property situated in cooperative housing society. Their father was the member of the society. During his life time, he had divided the suit property in two parts and handed over the respective portion to the present plaintiffs and the defendants. They were enjoying their respective shares.
3. It seems that the dispute arose, when the plaintiff applied to the society for membership. Barely the member of the society does not decide the right of inheritance. The suit of the plaintiff was to declare him owner of the half portion and injunction restraining the defendants from disturbing their peaceful possession over the suit plot.

4. It was tried to prove before the Courts that since the land/plot is owned by the society, a dispute would go to the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act. The law is well settled that the Co-operative Court has no jurisdiction to decide the title, right and interest over the property/plot allotted to its members. Hence, the Civil Court exclusively invokes jurisdiction, to decide the title, right, interest and the succession rights of the parties. The next question was who shall be the member of the society after the death of their father. Who shall be the member of the society would be governed under the rules of society. That issue pertains to the business and membership of the society. If any dispute over the membership arise in that circumstances, the dispute may be decided by the Co-operative Court.

5. Be that as it may, after hearing the learned counsel for the appellants, the Court is not satisfied that a substantial question of law is involved in the case. Hence, second appeal stands dismissed at the stage of admission.

(S. G. MEHARE, J.)

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