

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

SECOND APPEAL NO.225 OF 2017

Yusuf Babusha Shaikh
Deceased through his L.R.s

- 1(a) Altaf Yusuf Shaikh
Age : 40 yrs. Occu. Agri. Motor rewinding
- 1(b) Jaibun Yusuf Shaikh
Age : 65 yrs. Occu. Household
- 1(c) Ruksana Shabbir Sayyad
Age : 50 yrs. Occu. Household.

All R/o. Parner, Tq. Parner
Dist. Ahmednagar.

.. APPELLANTS
(Org. Defendants)

VERSUS

Dattatraya Lahanu Auti
Age : 60 yrs. Occu. Agri.
R/o. Parner, Tq. Parner
Dist. Ahmednagar.

.. RESPONDENT
(Orig. Plaintiff)

...

Mr.Shaikh M.A.Jahagirdar, Advocate for the appellants
Mr.Amol K. Gawali for respondent

...

WITH
SECOND APPEAL NO.226 OF 2017

Yusuf Babusha Shaikh
Deceased through his L.R.s

- 1(a) Altaf Yusuf Shaikh
Age : 40 yrs. Occu. Agri. Motor rewinding

1(b) Jaibun Yusuf Shaikh
Age : 65 yrs. Occu. Household

1(c) Ruksana Shabbir Sayyad
Age : 50 yrs. Occu. Household.

All R/o. Parner, Tq. Parner
Dist. Ahmednagar.

.. APPELLANTS
(Org. Defendants)

VERSUS

Dattatraya Lahanu Auti
Age : 60 yrs. Occu. Agri.
R/o. Parner, Tq. Parner
Dist. Ahmednagar.

.. RESPONDENT
(Orig. Plaintiff)

...

Mr. Shaikh M.A. Jahagirdar, Advocate for the appellants
Mr. Amol K. Gawali for respondent
Mr. Shaikh Ashpak Taher Patel, Advocate for the applicant
in Civil Application No. 7189 of 2023.

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 21.06.2023

P.C. :

1] The parties have entered into the compromise.
The parties in the present Second Appeals submit that in
view of the compromise, the present Second Appeals may
be disposed of.

2] In Second Appeal No.226 of 2017, Civil Application No.7189 of 2023 is filed by Dhondiram Ranuji Pujari. It is the contention of the applicant in the said application that there is registered agreement to sell dated 13.10.2008 between the applicant and Yusuf Babusha Shaikh i.e. father of the appellants in Second Appeal. By virtue of the registered agreement to sell, the part of the suit property was to be sold to the applicant, and therefore, he seeks leave to appear in the Second Appeal and to make submission in the Second Appeal.

3] Since the compromise is entered into between the parties in Second Appeals, the applicant in Civil Application No.7189 of 2023 has no role. However, it is clarified that the present compromise between the parties in Second Appeal would not prejudice the rights of the applicant in Civil Application No.7189 of 2023 under the agreement to sell and that he would have an independent remedy as may be available in law. As such, the applicant

may pursue civil remedy, as may be available in law.

4] In terms of the compromise, both Second Appeals are disposed of.

5] In view of the disposal of Second Appeals, pending Civil Application does not survive and the same stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC