

SGPunde

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14393 OF 2012
IN
SECOND APPEAL NO. 840 OF 2012

Jagannath s/o Supdu Mali & Ors.	... Applicants
<i>Versus</i>	
Sau. Vatsalabai @ Shakuntalabai w/o Jagannath Bhamre & Ors.	... Respondents

...

Mr. Ajit M. Gholap – Advocate for applicants
Mr. Pushkar S. Shendurnikar – Advocate for respondent nos. 6, 1A, 1B,
4A to 4C, 5B, 5C, 7/1 to 7/4
Mr. G. C. Navandar – Advocate for respondent nos. 8A and 8B

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CORAM : GAURI GODSE, J.
DATE : 20th FEBRUARY, 2023

PER COURT :

1. The decree impugned in the second appeal is for partition and separate possession. Second Appeal is admitted only with respect to the suit properties described at serial nos. 1(a), (b), (c), (f) and (g) of Schedule A and properties at Schedule B of the plaint. Decree passed by trial court with respect to the properties at serial nos. 1(d) and (e) of Schedule A of plaint is accepted by the defendants. The decree passed by the trial court was challenged only by the plaintiff, as her prayer with respect to rest of the suit

properties was refused. First appellate court modified the decree and granted relief with respect to all the properties described in Schedule A and B of the plaint. Hence, decree passed by the first appellate court is challenged in the second appeal.

2. It is made clear that there is no interim relief granted with respect to the properties at serial nos. 1(d) and (e) of Schedule A of plaint. Hence, execution of the decree with respect to said properties can continue.
3. Final decree proceedings with respect to suit properties at serial nos. 1(a), (b), (c), (f) and (g) of Schedule A and properties at Schedule B of the plaint to continue, however, by way of interim relief, there will be stay to the actual handing over of physical possession with respect to the said properties, subject to applicants and respondent no. 8 not creating any third party interest in respect of the same.
4. Civil Application is disposed off.

[GAURI GODSE]
JUDGE