

Pallavi

PALLAVI
MAHENDRA
WARGAONKAR

Digitally signed by
PALLAVI MAHENDRA
WARGAONKAR
Date: 2023.03.18
11:48:29 +0530

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

**SECOND APPEAL NO.686 OF 2019
WITH
CIVIL APPLICATION NO.356 OF 2018
IN
SECOND APPEAL NO.686 OF 2018**

Smt. Dhondubai Shivajirao Desai & Anr. ...Appellants
Versus
Smt. Rajakka Shahajirao Desai (deceased)
Thr. Her Legal Heir Shou. Sushila Laxman Chavan ...Respondent

- Mr. Ashutosh Kulkarni, for the Appellants/Applicant.
- Mr. Umesh H. Pawar for the Respondent.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 3rd MARCH 2023**

P.C. :

1. Heard Mr. Kulkarni, learned counsel appearing for the Appellants and Mr. Umesh Pawar, learned counsel appearing for the Respondent.

2. According to Mr. Kulkarni, substantial question of law involved in the Second Appeal is that the learned First Appellate Court has without any material on record, allotted certain portion of suit property 1D in favour of the plaintiff and certain portion in favour of the defendants. However, the findings recorded by both the Courts

Pallavi

clearly show that the said suit property at 1D is held to be joint family property.

3. It is the contention of the Appellant i.e. original defendants in the written statements as well as before both the Courts that the said property is self-acquired property. Both the Courts have concurrently found that said property at Sr. No.1D is joint family property.

4. It is admitted position that the original defendants have come up with the case that the said property at 1D is self-acquired property of the defendants and therefore, certain portion of the said property has been sold by the defendants. The learned First Appellate Court, after holding that the property at 1D is the joint family property, has allotted portion of the said property, which has been sold by the defendants to the share of the defendants. No perversity or illegality can be found in the said approach of the learned First Appellate Court. Therefore, there is no substantial question of law raised in the Second Appeal. Second Appeal is dismissed with no order as to costs.

5. In view of dismissal of the Second Appeal, nothing survives in the Civil Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]