

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Second Appeal (SA) No. 77 of 2021

Kailas S/o Uttam Mahale and another

Versus

Uttam S/o Vithoba Mahale and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.D.Chande, Advocate for the appellants.

CORAM : ANIL S. KILOR, J.

DATED : 3rd FEBRUARY, 2023.

In view of the fact that both the Courts below have held that appellant being legitimate son of defendant no.1 cannot claim partition during the life time of defendant no.1 and as defendant no.1 has expired during the pendency of the present appeal, the appellant wants to withdraw the present appeal with liberty to file a fresh suit for partition.

2. Permission to withdraw the present appeal is granted with liberty to avail the remedies available under the law for claiming partition in the properties of the defendant no.1.

3. Second appeal is disposed of as withdrawn.

[ANIL S. KILOR, J.]