

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

SECOND APPEAL NO. 51/2023

SHRI SHIWAJI S/O DOMAJI HIRUDKAR
VS

SHANKAR S/O DOMAJI HIRUDKAR AND 2 OTHERS

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

Court's or Judge's Order

Shri P.H. Khobragade, counsel (appointed) for the appellant.

CORAM : ANIL S. KILOR, J.

DATED : 25/01/2023

1. Heard.
2. The present Second Appeal challenges the judgment and decree dated 20/09/2017 passed by the District Judge-10, Nagpur in Regular Civil Appeal No. 294/2011, dismissing the appeal and thereby confirming the dismissal of the suit filed by the appellant/plaintiff for partition and separate possession vide judgment and decree dated 20/10/2010 passed by the Civil Judge Junior Division, Narkhed.
3. After going through the record, it can be revealed that the appellant/plaintiff admitted that he did not include the house property and land of Jatamzari in suit. No reason has been given regarding the exclusion of the house property and the land at Jatamzari.
4. Thus, it is evident that all the properties were not included in the suit, and therefore, both the Courts below concurrently held that partition cannot be

effected and the suit is not tenable for not joining all the properties.

5. In the circumstances, as no substantial question of law is involved in the present Second Appeal, accordingly the same is **dismissed**.

6. Fees of the learned advocate for the appellant is quantified as per Rules.

JUDGE