



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

**SECOND APPEAL NO.169 OF 2023
WITH
CIVIL APPLICATION NO.12761 OF 2024 IN SA 169 OF 2023**

**Rameshwar Namdev Wadhve
VERSUS
Kavita Vishambar Wadhve and others.**

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Advocate for appellant : Mr. N S Muthiyan
Advocate for Respondent 1,2 : Mr. R B Wankhede h/f Mr. N.L.
Jadhav
Advocate for respondent no.3 : Mr. R. N Jadhav

CORAM : S. G. CHAPALGAONKAR, J.

Dated : November 27, 2024

FINAL ORDER :-

1. This second appeal arises from the judgment and decree passed by the Civil Judge J.D. Aurangabad in R.C.S. No.326 of 2013 which has been confirmed by the District Judge, Aurangabad in R.C.A. No.234 of 2016. Consequently, the suit filed by respondent nos.1 and 2 seeking partition of the suit house bearing No.5-10-30/29 admeasuring 300 sq. feet as prescribed in paragraph no.1 of the plaint has been decreed.

2. Now, parties have amicably settled the dispute and filed civil application no.12761 of 2024 for recording terms of the compromise and modification/setting aside impugned decree. The consent terms are specified in paragraph no.2 of the civil application.

3. Respondent nos.1 to 3 i.e. original plaintiffs and defendant no.1 admits claim of the appellant/defendant no.2 that he is exclusive/sole owner of the property. Respondent nos.1 and 2/original plaintiffs have relinquished their right, if any, in the property in favour of appellant-defendant no.2 by accepting the amount of Rs.3,75,000/-. The details of such payment are specified in clause no.2(c) of the civil application.

4. In view of the aforesaid settlement, respondent nos.1 and 2/original plaintiffs withdraw all the claims in respect of suit property. Accordingly, parties to the civil application/appeal have jointly prayed for quashing and setting aside impugned judgments and decree passed by the Courts below. The Civil application has been duly verified by all the parties. Learned advocates appearing for them have identified their signatures. Contents of the civil application are solemnly affirmed before the Section Officer.

5. Today, parties presented aforesaid civil application to this Court. Accordingly, they were referred to the learned Registrar (Judicial) of this Court for verification of identity of the parties and acceptability of terms of settlement.

6. Learned Registrar (Judicial) of this Court forwarded his report, which is marked as Exhibit 'A' for identification. It indicates that parties have personally affirmed and verified the terms before him and there is no impediment for accepting the settlement as embodied in paragraph no.2 of the civil application.

7. In view of the aforesaid facts, following order is passed.

ORDER

- i. Second appeal is **allowed**.
- ii. The judgment and decree dated 17.12.2022 passed by the learned Adhoc District Judge-2, Aurangabad in Regular Civil Appeal No.234 of 2016 and the judgment and decree dated 15.7.2016 passed by the learned 4th Jt. Civil Judge J.D., Aurangabad in Regular Civil Suit No.326 of 2013 are hereby quashed and set aside and replaced by the terms of settlement as mentioned in paragraph nos.2a to 2g of the civil application. Consequently, civil application no.12761 of 2024 stands **disposed off**.
- iii. The decree be drawn up in terms of the settlement recorded in paragraph no. 2a to 2g of the civil application.
- iv. Second appeal stands **disposed off**. Pending civil application, if any, also stands disposed off.

(S. G. CHAPALGAONKAR, J.)

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