

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 150 OF 2021
WITH
CIVIL APPLICATION NO. 657 OF 2019
WITH
INTERIM APPLICATION NO. 8467 OF 2024
IN
SECOND APPEAL NO. 150 OF 2021**

Vishwanath Krushnaji Malawade ... Appellant/Applicant

vs.

Anand Krishnaji Malawade (Deceased) ... Respondents
Through The Legal Heirs

Ms. Sonali R. Chavan i/b Dr. Uday Warunjikar for the
Appellant/Applicant.

Mr. Sanjiv Sawant a/w Abhishek Matkar for Respondent No. 1(b).

CORAM : GAURI GODSE, J.

DATED : 8th JULY 2024

ORDER:

SECOND APPEAL NO. 150 OF 2021:

1. Heard learned counsel for the parties. The second appeal is admitted on the following substantial questions of law:

(i) Whether the appellant's suit for declaration could have been dismissed in the absence of a clear finding recorded that Anand was

exclusive owner of the suit property based on the gift deed in his favour which was not produced on record?

(ii) Whether the first appellate Court erred in not appreciating the documents at Exhibit-88, 46 and 92 produced by the appellant to prove his case of joint ownership on the constructed portion of the suit property?

2. Mr. Sanjiv Sawant and Abhishek Matkar waive service for Respondent No. 1(b). In addition to the Court notice, appellant to serve the remaining respondents by private notice.

3. Call for record and proceedings.

4. Printing is dispensed with.

5. Appellant shall file private paper-book within a period of one year.

INTERIM APPLICATION NO. 8467 OF 2024:

6. Since soft copy of the application was not accessible, I have taken on record the original affirmed copy of the application tendered by the learned counsel for the applicant.

7. The application is for bringing on record names of heirs and legal representative of respondent no.4.

8. The application is within time. The application is allowed in terms of prayer clause (a).

9. Amendment to be carried out within four weeks.

CIVIL APPLICATION NO. 657 OF 2019:

10. Learned counsel for the applicant seeks leave to amend the prayer clause in the application with supporting averments. Leave granted. Amendment to be carried out within four weeks from today.

11. Rule on interim relief in terms of prayer clause (a) and the amended prayer, returnable on 7th October 2024.

12. Mr. Sanjiv Sawant and Abhishek Matkar waive service for Respondent No. 1(b). In addition to the Court notice, appellant to serve the remaining respondents by private notice.

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
Date:
2024.07.20
13:23:31
+0530

(GAURI GODSE, J.)