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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 662 OF 2013
WITH
CIVIL APPLICATION NO. 525 OF 2017
IN
SECOND APPEAL NO. 662 OF 2013
WITH
SECOND APPEAL NO. 663 OF 2013
WITH
INTERIM APPLICATION NO. 1583 OF 2013
WITH
CIVIL APPLICATION NO. 526 OF 2017
IN
SECOND APPEAL NO. 663 OF 2013

Dattu Ramchandra More and Others ... Appellants/Applicants

Vs.

Shri Pandu Mahadeo More (deceased ... Respondents
through Lrs) and Others

Mr. V. S. Talkute for the Appellants.

Mr. V. R. Kumbhar i/b. Mr. N. V. Bandiwadekar for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 10th SEPTEMBER 2024

ORDER :

Interim Application No. 525 of 2017 in Second Appeal No. 662 of 2013

Interim Application No. 526 of 2017 in Second Appeal No. 663 of 2013

1. These applications are for bringing on record heirs and legal

representatives of deceased respondent no.1. The applications are within time. The application is allowed in terms of prayer clause (a).

2. Amendment to be carried out within three weeks.

Second Appeal No. 662 of 2013 and Second Appeal No. 663 of 2013

3. Heard learned counsel for the parties. The Second Appeals are admitted on the following substantial questions of law :

(i) Whether the findings recorded by both the courts in accepting Survey No. 21/13 and Survey No. 1/20 as Joint Family Property, would amount to incorrect appreciation of the facts and evidence on record in as much as the sale deed in respect of the said properties stands in exclusive name of defendant no. 1 and he has produced evidence on record to show his own independent income ?

(ii) Whether the sale deed of Survey No. 21/13 and Survey No. 1/20 standing exclusively in the name of defendant no. 1 and the supporting evidence that he had his own independent income is sufficient to hold that the said properties are independent self acquired properties of defendant no. 1 ?

(iii) If based on the documentary as well as oral evidence it is held that the suit property Survey No. 21/13 and Survey No. 1/20 are self acquired properties of defendant no.1, whether the plaintiff would be entitled to partition and separate possession in respect of the said properties ?

4. In addition to court notice, learned Advocate for the appellants to serve the respondents by private service and file service affidavit.
5. Call for record and proceedings.
6. Printing is dispensed with.
7. Learned Advocate for the appellants shall file private paper book within one year from today.

Civil Application No. 1583 of 2013 in Second Appeal No. 663 of 2013

8. Rule on interim relief in terms of prayer clause (a) is made returnable after ten weeks.
9. By way of ad-interim relief, there will be stay to the handing over of physical possession.
10. It is clarified that the proceeding for division of the properties as

per the impugned decree can proceed.

11. During the pendency of the Second Appeal, the parties shall not create any third party interest in respect of the Survey No. 21/13 and Survey No. 1/20.

[GAURI GODSE, J.]