



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

**SECOND APPEAL NO.372 OF 2021
WITH
CIVIL APPLICATION NO.783 OF 2020
WITH
CIVIL APPLICATION NO.3623 OF 2025**

**SAINATH S/O BABAN SABALE AND ORS.
VERSUS
SUVARNA VIJAY BORUDE AND ORS.**

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Mr. Rahul A. Tambe, Advocate for Appellants.

Mr. Nikhil P. Ghanwat, Advocate for Respondent Nos.1 and 2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 22nd APRIL, 2025.**

ORDER:-

1. The present Second Appeal is filed by original defendant nos.1 to 3 challenging judgment and decree dated 30.04.2019 passed by District Judge, Ahmednagar in Regular Civil Appeal No.65/2018, thereby upholding judgment and decree dated 18.10.2017 passed by Civil Judge, Senior Division in Special Civil Suit No.37/2014.

2. The respondent nos.1 and 2/original plaintiffs instituted suit for partition and separate possession in respect of agriculture land in Gut Nos.310, 313 and 308 situated at village Bitkewad, Tq. Karjat, Dist. Ahmednagar and house property situated at Pimpri, Tq. Haveli, Dist. Pune. It is contention of plaintiffs that suit properties are their ancestral properties. They are entitled for partition and separate possession of those properties alongwith

defendant nos.1 to 3. However, defendant nos.1 to 3 transferred agriculture land in favour of defendant no.4, who transferred the same in favour of defendant no.5. All those properties were owned by Babanrao, who died on 05.01.2007.

3. The suit was contested by defendant nos.1 to 3 by filing written statement at Exhibit-55, whereas defendant nos.4 and 5 filed their written statement at Exhibits 39 and 66. The Trial Court after considering pleadings and evidence, declared that plaintiffs have 1/5th share in suit properties and declared that sale deed executed in favour of respondent nos.4 and 5 are not binding on rights of plaintiffs. The original defendant nos.1 to 3 filed Regular Civil Appeal No.65/2018 before District Judge, Ahmednagar, who pleased to uphold decree passed by Trial Court. The defendant nos.1 to 3 filed present Second Appeal. Pertinently, original defendant nos.4 and 5 did not file Appeal nor they had appeared in Appeal before District Court or this Court.

4. Today learned Advocate appearing for appellants (original defendant nos.1 to 3) and learned Advocate appearing for respondent nos.1 and 2 (original plaintiffs) jointly submitted that appellants and respondent nos.1 and 2 have arrived at amicable settlement of dispute, particularly in respect of house property. The respondent nos.1 and 2/original plaintiffs have accepted amount of Rs.4,00,000/- each in lieu of their shares in house

property i.e. Flat No.7, B Type, Ashirwad Society, Sant Tukaram Nagar, Pimpri, Pune-18 and agreed that they shall not execute Regular Darkhast No.27/2017 to the extent of house property against appellants. The parties presented compromise terms, which are marked as Exhibit 'X' for identification.

5. In view of submissions of aforesaid terms of compromise, parties were directed to present themselves before learned Registrar (Judicial) of this Court for verification of terms and identification of parties. Accordingly, learned Registrar (Judicial) has submitted report to this Court observing that compromise terms are duly signed by parties, who are identified by respective Advocates. They have voluntarily entered into compromise and it is only limited to the extent of house property as indicated above.

6. In view of aforesaid compromise, original plaintiffs/respondent nos.1 and 2 have relinquished their rights in respect of house property, however they shall be free to execute decree against appellants and respondent nos.3 and 4 to the extent of suit lands.

7. In light of aforesaid compromise, Second Appeal stands dismissed as withdrawn. However, execution of decree under Appeal shall be subject to terms of settlement placed on record of

this Second Appeal, which is marked as Exhibit 'X' for identification.

8. In view of dismissal of Second Appeal, pending Civil Applications stand disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2025