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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.638 OF 2015

Pandurang Mahadeo Mahajan & Ors. ...Appellants

Versus

Balasaheb Sadashiv Shete & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.1377 OF 2015
IN
SECOND APPEAL NO.638 OF 2015

Pandurang Mahadeo Mahajan & Ors. ...Applicants

Versus

Balasaheb Sadashiv Shete & Ors. ...Respondents

Mr. Sachindra B. Shetye, for the Appellants.

Mr. Vikas M. Mali, for Respondent Nos.1 to 4.

Mr. Akshay S. Pansare, for Respondent Nos.6 to 11.

CORAM: MADHAV J. JAMDAR, J.
DATED: 04 AUGUST 2025

P.C.:

1. Heard Mr. Shetye, learned Counsel appearing for the Appellants, Mr. Mali, learned Counsel appearing for Respondent Nos.1 to 4 and Mr. Pansare, learned Counsel appearing for Respondent Nos.6 to 11.

2. All the learned Counsel state that the parties have settled the dispute and tender the 'Consent Terms'. The Consent Terms are signed by the Appellants through their Constituted Attorney - Pandurang Mahajan i.e. Appellant No.1. The Consent Terms are also signed by the learned Advocate appearing for the Appellants, who identifies the

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signature of Appellant No.1 - Pandurang Mahajan. The Consent Terms are also signed by Respondent Nos.1 to 4 through their Constituted Attorney, Pandurang Shivling Sagre, who is also personally present in Court and states that the Consent Terms are signed by him on behalf of Respondent Nos.1 to 4. The Consent Terms are signed by learned Advocate appearing for Respondent Nos.1 to 4, who identifies the signature of Pandurang Shivling Sagre. The Consent Terms are also signed by Bharat Rajaram Shete i.e. Respondent No.9 on his behalf and as Constituted Attorney of Respondent Nos.6 to 8, 10 and 11. All these Power of Attorneys are annexed to the Consent Terms.

3. The Respondent Nos.5 and 12 are deceased. Although Respondent No.5 is deceased, however, Respondent Nos.1 to 4 are the heirs and legal representatives of the deceased Respondent No.5. Respondent No.12 is also deceased, however, Respondent Nos.6 to 9 are the heirs and legal representatives of the deceased Respondent No.12.

4. Said Pandurang Mahajan i.e. Appellant No.1 (Constituted Attorney of the Appellants), Pandurang Shivling Sagre, Constituted Attorney of Respondent Nos.1 to 4 and Bharat Rajaram Shete i.e. Respondent No.9 (Constituted Attorney of Respondent Nos.6 to 8, 10 and 11), are personally present in Court and state that the parties have settled the dispute in terms of the Consent Terms and they have signed the Consent Terms. As already noted their signatures are identified by

the respective Advocates. Accordingly, the Consent Terms are taken on record and marked "X" for identification. The Consent Terms read as under :-

X' Trenchard in the Court on 06/08/15
09/08/15
S-2 (R-15)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 638 OF 2015

1) Pandurang Mahadeo Mahajan	)
Age- 55 yrs, Occ: Agriculturist	)
Palus, Dist: Sangli.	)
2) Narayan Mahadeo Mahajan	)
(Deceased)through her legal heirs:	)
a) Smt. Rajashri Narayan Mahajan.	)
Age: 45 yrs, Occ: Household	)
b) Nikhil Narayan Mahajan	)
Age: 21 yrs, Occu: Student	)
c) Akshay Narayan Mahajan	)
Age: 19 yrs, Occ: Student	)
All 2a) to 2c) R/o Aadinathnagar,	)
Bhosari, Pune-39.	)
3) Smt. Parubai Shivaram Kore,	)
(Deceased)through her legal heirs:	)
3a) Murlidhar Shivaram Kore	)
Age: 73yrs, Occ: Agriculture,	)
3b). Pandurang Shivaram Kore.	)
Age: 73 yrs, Occ: Agriculture,	)
3c). Dattatraya Shivaram Kore	)
Deceased	)
3c.i) Kalpana Dattatraya Kore.	)
Age: 60 yrs, Occ: Agriculture,	)
3d) Shrikant Shivaram Kore.	)
Age: 65 yrs, Occ: Agriculture.	)
Nos. 3a) to 3d) R/o Walwa.	)
Dist: Sangli.	)

Appellant R 1 to 4 R 6 to 11

3e). Mangal w/o Kanderao Patil,)
 Age: 60 yrs, Occ: Household,)
 R/o Nagaon, Tal. Walwa Dist: Sangli.) ...Appellants

Versus

1. Balasaheb Sadashiv Shete,)
 Age: 60 yrs, Occ: Agriculture,)
 R/o. Palus, Dist: Sangli.)

2. Vasant Sadashiv Shete)
 Age: 57 yrs, Occ: Rikshaw Driver,)
 R/o. Near Shivaji Mandai,)
 Dist: Sangli.)

3. Nandkumar Sadashiv Shete,)
 (Deceased)through her legal heirs)

3(a) Mahananda Nandkumar Shete (Wife))

3(b) Neha Atul Kore (Married Daughter))

3(c) Sudha Nandkumar Shete (Daughter))
 Respondent No. 3(a) to 3(C) Residing at)
 Plot No. 27, Patade Plot, Krushnabai Park,)
 Sangli Haripur Road, Near Kondabai)
 Salunhe High School, Haripur,)
 Dist: Sangli, Maharashtra - 416416.)

4. Kusum Jagannath Khadke,)
 (Deceased)through her legal heirs)

4(a) Ravindra Jaganath Khadke (Son))

4(b) Santosh Jaganath Khadake (Son))

4(c) Sunita Shivade (Daughter))
 Respondent No. 4(a) to 4 (c) R/at. At post)
 Burle, Tal. Palus, Dist. Sangli.)

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5. Shantabai Sadashiv Shete,)
 Age: 84 yrs, Occ: household,)
 R/o. 1025 Bhinge wada, Gaonbhag,)
 Dist: Sangli.)
 Deceased having LR's. Nos. 1 to 4.)
6. Chandrakant Rajaram Shete,)
 (Deceased) through her legal heirs)
 6(a). Shobha Bhimanand Patil (Daughter))
 6(b). Neeta Nitin Todkar (Daughter))
 6(c). Surekha Bahirao Patil (Daughter))
 6(d). Santosh Chandrakant Shete (Son))
 Respondent No. 6(a) to 6(c) Residing at)
 Palus, Tal. Palus, Dist. Sangali.)
7. Balkrishna Rajaram Shete,)
 (Deceased) through her legal heirs)
 7(a). Leelavati Balkrishna Shete (Wife))
 Age: 72 yrs, Occ: Housewife,)
 7(b). Vishwanath Balkrishna Shete (Son))
 Age: 45 yrs, Occ: Agriculture,)
 7(c). Amol Balkrishna Shete (Son))
 Age: 36 yrs, Occ: Business,)
 7(d). Shubhangi Balkrishna Shete (Daughter))
 Alias Shubhangi Sanjay Gangate)
 Age: 35 yrs, Occ: Housewife,)
 Respondent No. 7(a) to 7(d) Residing at)
 At post Valva, Chandoli Vasahat,)
 Tal. Islampur, Dist. Sangali.)
8. Shivaji Rajaram Shete,)
 Deceased)
 8a. Aruna Shivaji Shete,)

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- Age: 50 yrs, Occ: Household,)
- 8b. Tejas Shivaji Shete,)
Age: 25 yrs, Occ: Education,)
- 8c. Aniket Shivaji Shete,)
Age: 24 yrs, Occ: Education,)
All 8a. to 8c. R/o, Plot no.17,)
Ahilyanagar, Tal: Miraj,)
Dist: Sangli.)
9. Bharat Rajaram Shete,)
Age: 45 yrs, Occ: Agriculture,)
10. Smt.Krishnabai Rajaram Shete,)
Deceased Having L.Rs. Nos. 6 to 9)
11. Smt.Laxmibai Rajaram Shete,)
Deceased Having L.Rs. Nos. 6 to 9)
All 6,7,9,11 R/O Palus,)
Dist: Sangli.)
-Respondents

**CONSENT TERMS BETWEEN APPELLANTS AND
RESPONDENTS**

1. The Respondent No. 1 and 2, are Original Plaintiff no. 1 and 2, Respondent no. 3 and 4 are the heirs of Original Plaintiff no. 3 and 4. The Respondent No. 5 is the Original Plaintiff No. 5.
2. The Appellant no.1 is Original Defendant no. 2 and Appellant No. 2a and 2c are the heirs of Original

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Defendant no. 3. The Appellant No. 3a to 3d is the heirs of Original Defendant no. 4. Original Defendant no. 1 died during the pendency of the Special Civil Suit No. 390 of 1997, therefore, she was deleted.

3. Description of the Suit Property –

The Agricultural Land bearing Gat No. 508, admeasuring 0. Hectare 97 Are, including common 39 Neem and Babhool trees, and 1/8th share common share of water in well situated in Gat No. 724,

4. One Kundalika, the ancestor of the Defendants family executed a Deed of Rights, in favour of Dhondubai, his daughter for the purpose of maintenance during her lifetime. This maintenance Deed was executed on 25.08.1948.

5. The recitals of the said document show that old survey no. 724 admeasuring 2R of land and 1/4th share in the water of the ancestral well situated in the said land was part and parcel of the said Maintenance Deed. After consolidation scheme the said land was given new gat no. 508 and in 7/12 extract the area of the land is show excess i.e. in all 97 Gunthas.

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6. During her lifetime, Dhondubai executed the Gift Deed of the said land, by Gift Deed dated 28.06.1993, of entire 0. Hectare 97 Are of land in favour of Pandurang Mahadeo Mahajan, Narayan Mahadeo Mahajan.
7. The Plaintiff filed a Suit seeking Declaration that Gift Deed dated 26.08.1993 of Suit Land, executed by Original Defendant no. 1, Dhondabai, in favour of Original Defendant No. 2 and 3 is illegal, null and void. The Plaintiff also sought possession of the Suit property from Original Defendant No. 1 to 3. The Plaintiffs also prayed for Mesne Profit from the date of filing of Suit. The Plaintiffs also claimed $1/8^{\text{th}}$ common share of water in a well situated in Gat No. 724.
8. The Ld. Civil Judge by Judgment and Order dated 15.07.2010, decreed the suit and declared that Gift Deed 26.08.1993, executed by Defendant no. 1 in favour of Defendant no. 2 and 3 is illegal, null and void and not binding on the Plaintiffs. The Ld. Judge also held that the Plaintiffs are entitled for possession of the suit land from Defendant No. 2 and 3. The Defendant No. 2 and 3 were directed to hand over the possession of the suit land to the

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Plaintiffs. The Ld. Judge further held that the Plaintiffs are entitled for Mesne Profit from January 1997 till date of handing over possession of the suit land to the Plaintiffs. The enquiry of the Mesne Profit were directed to be made under Order 20 Rule 12(1) of Code of Civil Procedure. However, the court did not grant any prayer in respect of well situated in Gat No.724. The Decree was directed to be drawn accordingly.

9. The present Appellant are the Original Defendant No. 2, 3 and 4 filed Appeal being Regular Civil Appeal No. 277 of 2010 in the court of Ld. AD-HOC District Judge-1, Sangli, by Judgment and order dated 05.02.2015, the Ld. Ad-Hoc District Judge-1, Sangli, dismissed the Appeal and the Judgment and Decree passed in Special Civil Suit No. 390 of 1997 was confirmed.

10. Against the both the impugned Judgments, Decrees and Orders, the present Second Appeal is filed by the Appellants. Pending the Second Appeal this Hon'ble Court vide order dated 23.09.2022, passed in Civil Application No.1377 of 2015(Coram Hon'ble Justice S. M. Modak), the Appellants were directed to deposit Rs.

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10,000/- per month towards interim Mesne Profit from 23.09.2022. Accordingly, the Appellants have deposited the said amount in the Trial Court.

11. The parties have now arrived at settlement and have decided to amicably settle the dispute amongst themselves and have decided to settle the matter by filing this consent terms as under:-

- A) For the sake of convenience of the parties have got the land measured through private surveyor and the rough map drawn by him is enclosed with this Consent terms. The suit property Gat No.508 and the land bearing Gat No. 3632 of the map are and the same. For the convenience and for identification of the lands the same has been marked and enclosed to this consent terms.
- B) It is agreed between the parties that the Respondents shall be entitled for 97 Gunthas of lands shown in the map as ABCD. I.e. Respondent No. 1 to 5 50 % and Respondent No. 6 to 11 50%.

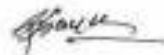
At Stn. Kurnool

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- C) It is agreed between the parties that the Respondent No. 1 to 5 are entitle for land admeasuring 48.5 gunthas marked as ABEF in the Map and the same shall be handed over by the Appellants to Respondent Nos. 1 to 5 and they will be exclusive owners of the said portion of land.
- D) It is also agreed between the parties that the Respondent No. 6 to 11 are entitle for the land admeasuring 48.5 Gunthas marked as EFGD in the Map and the same shall be handed over by the Appellants to Respondent Nos. 6 to 11 and they will be exclusive owners of the said portion of the land.
- E) It is agreed between the parties that the Respondent No. 1 to 5 and Respondent No. 6 to 11 shall have 6 "આળસે (40%) share each and Appellant will have 2 "આળસે (20%) common share of water in the well situated in Gat No. 510, Village Savantpur, Taluka Palus, District Sangali.

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- F) It is also agreed and Appellants undertake that they shall put the Respondents in possession of suit land as mentioned in clause (C) and (D) on or before 31/8/25.
- G) It is agreed between parties that Respondents hereby give up their claim of Mesne Profit granted to them under the impugned decree from the Appellants and they shall not claim the same in future.
- H) The Appellants and Respondents declare and confirm that in view of Clause No. (A), (B), (C) and (D) of these consent terms the Decree of Possession passed by Ld. Jt. Civil Judge Senior Division, Sangli in Special Civil Suit no. 390 of 1997, is accordingly modified.
- I) It is agreed between the parties that the entire amount deposited by the Appellants so far in the Executing Court, view of order dated 23.09.2022, passed in Civil Application No. 1377 of 2015, towards interim Mesne Profit Shall be allowed to be withdrawn by the Appellants and Respondents hereby give no objection to Appellants for withdrawal of the said amount. The

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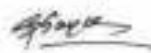
Appellant shall be at liberty withdraw the said amount forthwith.

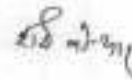
12. It is also agreed between the parties that the parties shall keep 12 Feet strip of land for the purpose of using the said strip of land as a "Road" inside the boundaries demarcated as B, F and D. The said strip of land (Road) is kept to approach the common well which is situated in Gat No. 510. The said strip of land of 12 Feet is marked on the rough map which is enclosed to this Consent Terms. It is further agreed and understood between parties that the said strip of land of 12 Feet shall be used only by the owners of Gat No. 508, 509 and 510.

13. It is agreed between the parties that Respondents shall remove all bushes and scrubs and keep the land clean by incurring expenses respectively.

14. It is also further agreed between the parties that the total area consume for 12 Feet strip towards southern side shall be equally compensated by Appellants and Respondent No. 1 to 5, to put Respondent No. 6 to 11 in possession of the area of land they are entitled for.

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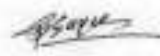


15. It is also agreed between the parties that the boundary of the lands as demarcated in the map BFD (the southern side of 12 Feet strip of land) shall be fence with metal wire for the purpose of protection from encroachment. It is also further agreed between the parties that the expenses of the said fencing (wiring compound) shall be borne by Appellants 25 %, Respondent No. 1 to 5 37.5 % and Respondent No. 6 to 11 37.5 % each.
16. In view of this settlement, the Decree passed on 15.07.2010, by Ld. Jt. Civil Judge Senior Division, Sangli in Special Civil Suit no. 390 of 1997, be modified accordingly.
17. The parties shall give consent before Revenue Authorities to get their names entered into Revenue Records of Suit Land in Proportion of their respective shares in view of this Consent Terms

Date :- 04/08/2023

Place :- Mumbai

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28/08/2023

1. Pandurang Mahajan

Appellant No.1

पि मं महाराज Pandurang Mahajan for all the Appellants

2a) Smt. Rajashri Narayan Mahajan

2b) Nikhil Narayan Mahajan

2c) Akshay Narayan Mahajan

3a) Murlidhar Shivram Kore

3b) Pandurang Shivram Kore

3c. i.) Kalpana Dattatraya Kore

3d) Shrikant Shivaram Kore

3e) Mangal w/o Kanderao Patil

(Appellants No. 2a to 3e through Power of Attorney holder

Shri. Pandurang Mahajan Appellant No. 1)



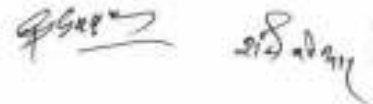
Advocate for the Appellants

1) Balasaheb Sadashiv Shete

2) Vasant Sadashiv Shete

3) Nandkumar Sadashiv Shete

Deceased through Legal Heirs



3(a). Mahananda Nandkumar Shete (Wife)

3(b). Neha Atul Kore (daughter)

3(c). Sudha Nandkumar Shete (Daughter)

4) Kusum Jagannath Khadke

Deceased through Legal Heirs

4a) Ravindra Jaganath Khadake

4b) Santosh Jaganath Khadake

4c) Sunita Shivade

5) Shantabai Sadashiv Shete

Deceased Legal Heirs are Respondent No. 1 to 4

Respondent No. 1 to 5 through Power of Attorney holder

Shri. Pandurang Shivling Sagre)


Pandurang Shivling Sagre

Vikas M. Mali,
Advocate for Respondent No. 1 to 4

6. Chandrakant Rajaram Shete,
(Deceased) through her legal heirs

6(a). Shobha Bhimanand Patil

6(b). Neeta Nitin Todkar

6(c). Surekha Bahirao Patil

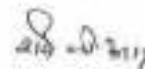
6(d). Santosh Chandrakant Shete

7. Balkrishna Rajaram Shete,
(Deceased) through her legal heirs

7(a). Leelavati Balkrishna Shete

7(b). Vishwanath Balkrishna Shete

7(c). Amol Balkrishna Shete



- 7(d). Shubhangi Balkrishna Shete
- 8. Shivaji Rajaram Shete, (Deceased)
- 8a. Aruna Shivaji Shete,
- 8b. Tejas Shivaji Shete,
- 8c. Aniket Shivaji Shete
- 9. Bharat Rajaram Shete
- 10. Smt. Krishnabai Rajaram Shete,
Deceased Having L.Rs. Nos. 6 to 9
- 12. Smt.Laxmibai Rajaram Shete,
Deceased Having L.Rs. Nos. 6 to 9

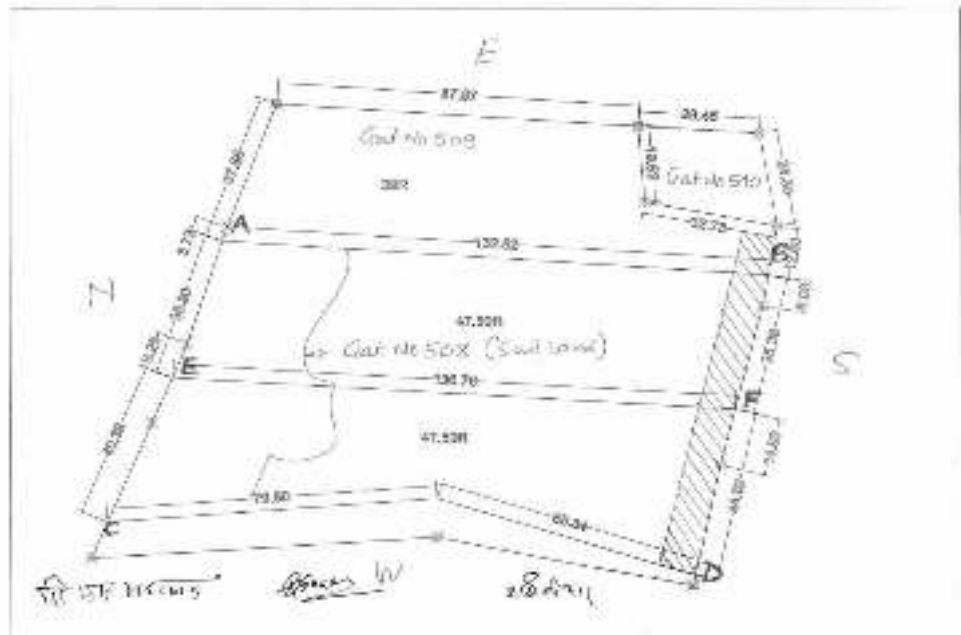
(Respondent No. 6 to 11 through Power of Attorney
holder through Bharat Rajaram Shete, Respondent No. 9)

भारत
Bharat Rajaram Shete

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Advocate Akshay Pansare
Advocate for Respondent No. 6 to 11

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5. Accordingly, Second Appeal No.638 of 2015 is disposed of in terms of the Consent Terms.
6. Resultantly, the impugned Judgment and Decree dated 5th February 2015 passed by the learned Ad-hoc District Judge-1, Sangli in Regular Civil Appeal No.277 of 2010 as well as the Judgment and Decree dated 15th July 2010 passed by the learned Joint Civil Judge, Senior Division, Sangli in Special Civil Suit No.390 of 1997 are quashed and set aside and said Special Civil Suit No.390 of 1997 is decreed in terms of the Consent Terms.
7. Accordingly, the Second Appeal is disposed of in above terms with no order as to costs.

8. In view of disposal of the Second Appeal, the Civil Application No.1377 of 2015 is also disposed of in terms of the Consent Terms.

[MADHAV J. JAMDAR, J.]