

MJ Jadhav

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 309 OF 2018
WITH
CIVIL APPLICATION NO. 676 OF 2018
WITH
CIVIL APPLICATION NO. 541 OF 2019
IN
SECOND APPEAL NO. 309 OF 2018**

Ismail Ibrahim Nardekar (Deceased ... Appellants
Through LRS)

vs.

Appasso Yashwant Pawar (Deceased ... Respondent
Through LRS)

Mr. Ramdas A. Shelke for the Appellants.

Mr. Tejpal S. Ingale for Respondent Nos.1A to 1F, 2A, 2B and 2D.

CORAM : GAURI GODSE, J.

DATED : 28th JANUARY 2025

ORDER:

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

(I) Whether the first appellate court was justified in setting aside the injunction decree passed against defendant no.1, who is a stranger purchaser of half undivided share through defendant no.2

(II) When the sale deed in favour of defendant no.1 is declared as void ab initio in Regular Suit No. 252 of 1983, whether defendant no.1 can claim any right in the suit property?

2. Mr. Tejpal S. Ingale waives service on behalf of Respondent Nos.1A to 1F, 2A, 2B and 2D.

3. Issue regarding effect of abatement if any against deceased respondent no.2(C) is kept open.

CIVIL APPLICATION NO. 676 OF 2018 :

4. Learned counsel for the appellants seeks leave to withdraw this application with liberty to file fresh application for appropriate relief. Leave granted.

5. The civil application is disposed as withdrawn with liberty as prayed.

CIVIL APPLICATION NO. 541 OF 2019 :

6. This application is for deleting name of deceased respondent no.2(C). Leave to delete granted at the risk of the appellant. Amendment to be carried out within four weeks from today.

7. The civil application is allowed in aforesaid terms.

(GAURI GODSE, J.)