

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.444 OF 2025
WITH
INTERIM APPLICATION NO.12653 OF 2023
IN
SECOND APPEAL NO.444 OF 2025

Shivram Govind @ Balu Bendre
(Deceased) Thro. His Lrs & Ors.

...Appellants

Versus

Krishna Daji Bendre (Deceased)
Through His Legal Heirs & Ors.

...Respondents

Mr. Sugandh Deshmukh a/w Mr. Aniket Kanawade a/w Mr. Iruin Dsouza, Mr. Arayan Deshmukh and Mr. Bhushan Deshmukh, for the Appellants.

Mr. Vaibhav Thorave, for the Respondent Nos. 2 to 27 and 29 to 30.

Mr. Aniket Ranade, for the Respondent No.28.

CORAM: MADHAV J. JAMDAR, J.

DATED: 4th AUGUST 2025

P.C.:

1. Heard Mr. Deshmukh, learned Counsel appearing for the Appellants, Mr. Thorave, learned Counsel appearing for the Respondent Nos.2 to 27 and 29 to 30 and Mr. Ranade, learned Counsel appearing for the Respondent No.28.

2. Admit the Second Appeal on the following substantial questions of law.

- (a) Whether the finding recorded by both the Courts that there was an oral partition and which has been reported to the revenues authorities in the year 1956 is

in accordance with the evidence on record?

- (b) Whether both the Courts have ignored that all the suit properties are not partitioned by said alleged oral partition of the year 1956?

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3. Issue notice to the Respondents, returnable on **10th November, 2025.**

4. In addition to the Court notice, the Applicants to serve the Respondents by private service and shall file affidavit of service before the returnable date.

5. Mr. Ranade, learned Counsel appearing for the Respondent No.28 and Mr. Thorave, learned Counsel appearing for the Respondent Nos. 2 to 27 and 29 to 30, waives service.

6. Accordingly, issue notice only to the Respondent No.1.

7. The record shows that Respondent No.1 has already sold the property bearing Survey No.116/8 to the Respondent No.28 by registered sale deed dated 4th March 1999.

8. Accordingly, the Appellants and Respondents are directed not to create any third party interest with respect to the suit properties, except said Survey No.116/8. As Respondent No.1 has already sold suit property bearing Survey No.116/8 to the Respondent No.28, no injunction is granted with respect to the said property as ultimately if

the Second Appeal is allowed, then the said property bearing Survey No.116/8 can be allotted to the share of Defendant No.1.

9. Stand over to 10th November 2025.

[MADHAV J. JAMDAR, J.]