

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.296 OF 2024

Shivaji Shankar Upari & Anr.

...Appellants

Versus

Balu Dattu Sangle

...Respondents

(Deceased through LR.)

1A. Kumar Balu Sangale & Ors.

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WITH
INTERIM APPLICATION NO.10386 OF 2024
IN
SECOND APPEAL NO.296 OF 2024

Shivaji Shankar Upari & Anr.

...Applicants

IN THE MATTER BETWEEN:

Shivaji Shankar Upari & Anr.

...Appellants

Versus

Balu Dattu Sangle

...Respondents

(Deceased through LR.)

1A. Kumar Balu Sangale & Ors.

Mr. Chetan G. Patil a/w Bhushan Jadhav i/b Mandar G. Bagkar, for the Appellants.

CORAM: MADHAV J. JAMDAR, J.
DATED: 29 JULY 2025

P.C.:

1. Mr. Chetan Patil, learned Counsel appearing for the Appellants submits that following substantial questions of law are arising in this Second Appeal.

i. Whether the Ld. Lower Courts are justified in completely overlooking material piece of evidence which conclusively decides the rights of the parties qua the suit property on completely untenable grounds?

ii. Whether the Ld. Lower Courts are justified in overlooking the material aspect of the matter in which the plaintiffs have produced the copies of the compromise decree of the year 1946, certified to be true by the officer of “Paschim Maharashtra Devasthan Samiti”, which is working under the control of Government of Maharashtra as per Chapter VII - A of the Maharashtra Public Trust Act, 1950?

iii. Whether Ld. Lower Courts are justified in completely discarding the letter addressed by Balkabai Upari to the Charity Secretary thereby specifically stating that she has no objection if the emoluments are paid to the predecessor of the plaintiffs viz. Dadu, although the said document was certified to be a true copy by the officer of the “Paschim Maharashtra Devasthan Samiti”?

iv. Whether the Ld. Lower Courts are justified in completely discarding the compromise decree of the year 1946, which conclusively decided the rights of the parties qua the suit property, on a completely incorrect ground that the said compromise decree produced by the plaintiffs is not a certified copy?

2. However, as the reliance is on the Judgment and Decree dated 18th April 1946 of the then Kolhapur High Court, and there is

chequered history to the litigation, it is necessary to issue notice to the Respondents.

3. Accordingly, issue notice to the Respondents, returnable on 23rd September 2025.

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

[MADHAV J. JAMDAR, J.]