

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 730 OF 2024

Chidanand Halapa Kumbhar and Anr. ...Appellants
Versus
Sau. Savitri Gurubai Kumbhar and Anr. ...Respondents

Mr. Milind Deshpande for the Appellants.

CORAM : M.M. SATHAYE, J.
DATE : 18th JUNE, 2025

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P.C. :

1. Heard learned Advocate for the Appellants.
2. Appellants are original Defendant Nos. 1 and 2, who are brothers of Respondent No. 1 / sole Plaintiff (sister) who has filed suit for partition, separate possession and injunction. Perusal of the Issues framed by the Trial Court would show that the Plaintiff could not prove that she has share in the suit property, however the issue regarding her claim on the basis of the Will of father Halappa has been accepted. On that basis, the Trial Court granted mere injunction in respect of suit property No. 1A. This judgment was carried in appeal by present Appellants and the Appellate Court, again holding that the Plaintiff has no share in the suit property, confirmed the decree to the extent of injunction based on the Will to the extent of suit property No.1A.
3. Perusal of the Judgment of the Trial Court (paragraph 22) shows that the Plaintiff has taken a stand that her father Halappa has

received the suit property No. 1A in partition between himself and Defendants (brothers). However, the copy of the Will Exh.50 placed on record by the Appellants indicates that suit property i.e. Gat No.287/1 is asserted to be self-acquired property of Halappa under paragraph 7 and 8. As such there is apparent contradiction in the nature of the property bequeathed under the Will.

4. In view of the aforesaid, issue notice to the Respondents, returnable on 16.07.2025. In addition to the Court's notice, private notice is permitted.

5. The Appellants is at liberty to move the Court in case any notice of execution of the impugned Judgment and Decree is received.

(M.M. SATHAYE, J.)