

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 508 OF 2024
WITH
INTERIM APPLICATION NO. 11636 OF 2024
IN
SECOND APPEAL NO. 508 OF 2024**

Arjun Raoji Gaikwad ... Appellant/Applicant

vs.

Kusum Raosaheb Phadtare and Ors. ... Respondents

Ms. Shruti Tulpule for the Appellant/Applicant.

Mr. S. c. Wakankar a/w Aishwarya Bapat for Respondent No.1.

Mr. Arjun Raoji Gaikwad- Appellant, Present.

Smt. Kusum Raosaheb Phadtare- Respondent No.1, Present.

CORAM : GAURI GODSE, J.

DATED : 17th FEBRUARY 2025

ORDER:

1. Learned counsel for the appellant and respondent no.1 have tendered consent terms dated 17th February 2025. The consent terms are signed by the appellant and respondent no.1 and their respective advocates. The appellant and respondent no.1 are present in the Court.

2. Learned counsel for respondent no.1 submits that the impugned decree is not challenged by defendant nos.2 to 10.

3. Learned counsels for the parties submit that they have explained the terms of the consent terms to the parties in Marathi.

4. The second appeal arises out of a partition decree. The appellant is original defendant no.1 and respondent no.1 is the plaintiff. By way of the consent terms, the appellant and respondent no.1 have agreed to *inter se* exchange their undivided share in the suit property.

5. The internal arrangement between the appellant and respondent no.1 does not disturb the rights of the other defendants as per the impugned decree. Learned counsels for the parties submit that in paragraph nos.11, 12 and 13 parties have clarified that the modification is restricted to their internal arrangement and restricted to the exchange of their undivided share.

6. The consent terms dated 17th February 2025 is taken on record and marked 'X' with today's date for identification.

7. I have perused the terms agreed between the parties as recorded in the consent terms. The parties have clarified in the consent terms that the modification to the impugned decree is restricted only to the undivided shares of appellant and respondent no.1. The terms further clarifies that the modification will not affect the shares and rights of defendant nos.2 to 10. The terms of the

consent terms are legal and valid.

8. Respondent nos.2 to 10 i.e. original defendant nos.2 to 10 are not signatories to this consent terms. Hence, it is clarified that the modification as per the consent terms shall not be binding upon respondent nos.2 to 10. It is further clarified that the modification agreed between the appellant and respondent no.1 is restricted to their respective undivided share.

9. The assurances recorded in the consent terms are accepted as undertakings to this Court on behalf of the appellant and respondent no.1.

10. The second appeal is disposed of in terms of consent terms. The impugned decree dated 30th April 2024 passed by the District Judge, Pune in Regular Civil Suit No.523 of 2015 is modified in terms of the consent terms qua the appellant and respondent no.1. The impugned decree stands confirmed so far as the respondent nos.2 to 10 is concerned.

11. In view of clause 16 of the consent terms, it is clarified that the modification qua the appellant and respondent no.1 is also restricted only to the suit properties described in prayers 1(b), 1(c) and 1(d). Hence, impugned decree stands confirmed so far as the remaining suit properties are concerned.

12. In view of disposal of the second appeal, interim application is disposed of as infructuous.

(GAURI GODSE, J.)