



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

SECOND APPEAL NO.455/2023

APPELLANT :
(Ori. Plaintiff)

Arun s/o Narayanrao Kale
Aged 63 years, Occupation Agriculture
resident of Narayan Nagar, Daryapur,
Tahsil Daryapur, District Amravati.

...VERSUS...

RESPONDENTS : 1.
(Ori. Defendant
Nos.1 to 5)

1. Sau. Meena w/o Kishore Maliye
Aged 67 Years, Occupation Agriculture.
2. Ku. Sneha d/o Kishore Maliye
Aged 44 years, Occupation Household.
3. Ku. Priyanka d/o Kishore Maliye
Aged 42 Years, Occupation Household.
4. Ku. Aarti d/o Kishore Maliye
Aged 40 Years, Occupation Household.
5. Varun s/o Kishore Maliye
aged 32 Years, Occupation Household.

All resident of Rajputpura, Daryapur,
Tahsil Daryapur, District Amravati.

Ori. Plaintiff
No.2

6. Kishor s/o Kisanlalji Maliye
aged 61 years, occupation agriculture,
resident of Rajputpura, Daryapur, Tahsil
Daryapur, District Amravati.

Mr. Jaideep J. Chandurkar, Advocate for appellant
Mrs. Dr. Renuka S. Sirpurkar, Advocate for respondents

WITH

SECOND APPEAL NO.148/2024

APPELLANTS : 1. Smt. Meena Kishor Maliye
(Orig. Def Aged about 66 Years, Occu – Agriculturist
no.2-6 & LR's of
Orig. Def no.1) 2. Sneha d/o Kishor Maliye
On RA Aged about 45 Years, Occ – Household.
3. Priyanka d/o Kishor Maliye
Aged about 43 Years, Occu- Household.
4. Arati d/o Kishor Maliye
Aged about 41 Years, Occu- Household.
5. Karan s/o Kishor Maliye
Aged about 32 Years, Occu – Cultivator
All R/o Sula, Post – Kalambeshwar,
Tah – Mehkar, Dist. Buldana.

...VERSUS...

RESPONDENT : Arun s/o Narayan Kale
(original plaintiff) Aged about 73 yrs. Occ- Agriculturist
On RA R/o Narayannagar, Daryapur,
Tah- Daryapur, Dist. Amravati.

Mrs. Dr. Renuka S. Sirpurkar, Advocate for appellants
Mr. Jaideep J. Chandurkar, Advocate for respondent

WITH**SECOND APPEAL NO.457/2023**

APPELLANT : Arun s/o Narayanrao Kale
(Ori. Plaintiff) Aged 63 years, Occupation Agriculture
resident of Narayan Nagar, Daryapur,
Tahsil Daryapur, District Amravati.

...VERSUS...

- RESPONDENTS** : 1. Sau. Meena w/o Kishore Maliye
(Ori. Defendant Aged 67 Years, Occupation Agriculture.
Nos.2 to 6)
2. Ku. Sneha d/o Kishore Maliye
Aged 44 years, Occupation Household.
3. Ku. Pranjali d/o Kishore Maliye
Aged 42 Years, Occupation Household.
4. Ku. Arati d/o Kishore Maliye
Aged 40 Years, Occupation Household.
5. Varun s/o Kishore Maliye
aged 32 Years, Occupation Household.

All resident of Rajputpura, Daryapur,
Tahsil Daryapur, District Amravati.

Mr. Jaideep J. Chandurkar, Advocate for appellant
Mrs. Dr. Renuka S. Sirpurkar, Advocate for respondents

WITH

SECOND APPEAL NO.156/2024

- APPELLANTS** : 1. Smt. Meena Kishor Maliye
(Orig. Plaintiffs Aged about 66 Years, Occu – Agriculturist
& legal representatives of ori. Def. no.1)
2. Sneha d/o Kishor Maliye
Aged about 45 Years, Occu – Household.
- On RA 3. Priyanka d/o Kishor Maliye
Aged about 43 Years, Occu- Household.
4. Arati d/o Kishor Maliye
Aged about 41 Years, Occu- Household.
5. Karan s/o Kishor Maliye
Aged about 32 Years, Occu – Cultivator

All R/o Sula, Post – Kalambeshwar,
Tah – Mehkar, Dist. Buldana.

...VERSUS...

RESPONDENT : Arun s/o Narayan Kale
 (Ori. Deft. No.2) Aged about 73 yrs. Occ- Agriculturist
 On RA R/o Narayannagar, Daryapur,
 Tah- Daryapur, Dist. Amravati.

 Mrs. Dr. Renuka S. Sirpurkar, Advocate for appellants
 Mr. Jaideep J. Chandurkar, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.

Date of reserving the Judgment : 28/11/2025
Date of pronouncing the Judgment : 16/12/2025

J U D G M E N T :

1. These four second appeals are pertaining to the same property and same parties. They involve common dispute and are therefore being decided by common judgment. Second Appeals arise out of two different suits being Regular Civil Suit No.15/2012 (Old Special Civil Suit No.11/2008) and Regular Civil Suit No.39/2007.

2. The appellants in Second Appeal Nos.148/2024 and 156/2024 had filed Regular Civil Suit No.39/2007 *inter alia* seeking decree of perpetual injunction restraining the defendant No.1 from selling the suit property to the defendant No.2 in the said suit. The plaintiffs in the said suit are wife and children of defendant No.1. It is their case that the suit property which is an agricultural land bearing Gat No.138 of village Shivar, Tahsil Daryapur, District Amravati admeasuring 1.70 HR is Joint Family property of plaintiffs and

defendant No.1 in the said suit and that the defendant No.1 had intention to sell the suit property to the defendant No.2 in order to satisfy his vices. It is stated that the defendant No.1 was addicted to liquor and was intending to sell the suit property to the defendant No.2 in order to meet expenses for the same.

3. The defendant No.1 (Vendor) filed a Purnis admitting the entire claim of the plaintiffs. However, his application seeking permission to file written statement is rejected by the learned trial Court. The defendant No.2 filed written statement in the suit and denied all adverse allegations in the plaint. Defendant No.2 contended that the defendant No.1 had entered into an agreement of sale with respect to suit property with him for a valuable consideration of Rs.1,29,500/-. The defendant No.2 stated that defendant No.1 had also executed sale-deed in his favour and had delivered possession of the suit property to him. It was further stated that on the same day i.e. on 11/07/2007, the defendant No.1 had repaid loan of Rs.12,200/- to Daryapur Seva Sahakari Society. The defendant No.2 contended that the sale-deed could not be registered since the plaintiff No.1 visited the office of Sub Registrar while the said sale-deed was about to be registered and created ruckus. The defendant No.1 denied that suit property was Joint Hindu Family property and claimed that defendant No.1 was sole and absolute owner of the same.

4. The plaintiffs in Regular Civil Suit No.39/2007 will be referred as “objectors”, the defendant No.1 will be referred as “vendor (Karta)” and the defendant No.2 will be referred as “purchaser” in the body of the judgment hereinafter.

5. The learned trial Court dismissed the said suit vide judgment and decree dated 12/07/2012. The objectors/plaintiffs have preferred Regular Civil Appeal No.100/2012, challenging the said decree. The said appeal came to be allowed vide judgment and decree dated 05/10/2023. The judgment and decree passed by the learned trial Court came to be quashed and set aside and a decree for perpetual injunction was passed in favour of the plaintiffs/objectors thereby restraining the defendant No1-vendor from selling the suit property to the defendant No.2 – purchaser. However, the learned first Appellate Court had recorded a finding that the defendant No.1 - vendor had entered into agreement of sale with the defendant No.2 - purchaser and that the defendant No.2 - purchaser had paid a sum of Rs.1,29,500/- to the defendant No.1 - vendor. The plaintiffs (objectors) have filed Second Appeal No.156/2024, challenging the said finding, recorded by the learned first Appellate Court.

6. Likewise, the purchaser/defendant No.2 has preferred Second Appeal No.156/2024, challenging the said judgment and decree dated 05/10/2023, passed by the learned first Appellate Court in

Regular Civil Suit No.100/2012, since the suit filed by the objectors came to be decreed.

7. The purchaser, who is defendant No.2 in Regular Civil Suit No.39/2007 filed a separate suit being Regular Civil Suit No.15/2012 (Old Special Civil Suit No.11/2008) *inter alia* seeking declaration that he had become owner of the suit property by virtue of sale-deed dated 11/07/2007, executed in his favour by the vendor (defendant No.1) and for a mandatory injunction, directing the defendant No.1 to register the said sale-deed dated 11/07/2007 and further perpetual injunction against the defendant No.1 - vendor and defendant Nos.2 to 6 – objectors, restraining them from disturbing his possession over the suit property. Alternate prayer for refund of sale consideration of Rs.1,29,500/- is also made in the said plaint.

8. Perusal of the plaint averments will indicate that according to the purchaser, the suit property is self-acquired property of his vendor (defendant No.1). The averments in the plaint in Regular Civil Suit No.15/2012 are similar to the averments in written statement filed in Regular Civil Suit No.39/2007. In the said suit, the defendant No.1-vendor had raised a defence that the transaction between the parties was a loan transaction of Rs.20,000/- obtained by vendor- defendant No.1 and that the sale-deed was got executed by the plaintiff, drawing an unfair advantage of the fact that the defendant No.1 - vendor was

under intoxication at the relevant time. The defendant Nos.2 to 6 in Regular Civil Suit No.39/2007 (objectors), raised a contention that the suit property was ancestral property and that defendant No.1 (vendor) did not have any right to alienate the same. The contention that the defendant No.1 intended to satisfy his vices, which was raised in Regular Civil Suit No.39/2007, is reiterated in the written statement.

9. The learned trial Court decided the suit vide judgment and decree dated 12/07/2012 by granting a declaration that the purchaser (plaintiff) had become owner of the suit property by virtue of sale-deed dated 11/07/2007 and directed the defendant No.1 (vendor) to execute sale-deed with respect to the suit property in favour of plaintiff (purchaser). Perpetual injunction restraining the defendants i.e. vendor and objectors from disturbing possession of the purchaser over the suit property was also granted.

10. The objectors (original defendant Nos.2 to 6) preferred Regular Civil Appeal No.99/2012, challenging the said judgment and decree passed by the learned trial Court. The learned first Appellate Court held that the suit property was an ancestral property and therefore, the defendant No.1 - vendor did not have any right to sell the same to the purchaser. However, the learned first Appellate Court has held that the purchaser had proved that the vendor had executed sale-deed dated 11/07/2007 in his favour and had received sale

consideration of Rs.1,29,500/-. In view of above, the learned first Appellate Court granted decree for refund of amount of Rs.1,29,500/- with interest @ 6% per annum in favour of the plaintiffs instead of decree for execution and registration of sale-deed. It will be pertinent to mention here that the learned first Appellate Court also recorded finding that the purchaser had failed to prove his possession over the suit property and that the same was in possession of the defendant No.1 - vendor.

11. Aggrieved by the said judgment and decree, dated 05/10/2023, passed by the learned first Appellate Court, the purchaser has filed Second Appeal No.455/2023. Likewise, the objectors (defendant Nos.2 to 6) have also filed Second appeal No.148/2024, challenging the decree for refund of amount.

12. Following substantial questions of law have been framed in the present appeals.

“(A) Second Appeal No.455/2023 :

(i) Whether the Judgment and decree passed would be inconsistent decree inasmuch as the respondent original plaintiffs had failed to bring the legal representatives of defendant No.1 on record in appeal and the same would be regularized to inconsistent decree ?

(ii) Whether the finding by the Lower Appellate Court to the effect that the suit property is an ancestral property is not borne out from the evidence on record; and in any case the

plaintiff would be entitled to the share of the defendant No.1 if the same is held to be an ancestral property ?

(iii) Whether in view of the findings that the suit property was an ancestral property the appellant/plaintiff can be divested of the same in the absence of a suit for partition by the other defendants ?

(B) Second Appeal No.148/2024 :

“Whether the First Appellate Court was right in holding that the sale-deed executed by deceased Kishor Maliye is not a nominal one arising out of money lending transaction ?

(C) Second Appeal No.457/2023 :

“(i) Whether the Judgment and decree passed by the learned Lower Court is liable to be set aside inasmuch as the plaintiffs had failed to lead any substantial evidence to prove that the suit property was their ancestral property ?

(ii) Whether the Judgment and decree passed would be inconsistent decree inasmuch as the respondent original plaintiffs had failed to bring the legal representatives of defendant No.1 on record in appeal and the same would be regularized to inconsistent decree ?

(D) Second Appeal No.156/2024 :

“(1) Whether the sale deed executed by defendant No.1 can be treated as valid document being it is unregistered ?

(2) Whether the First Appellate Court was right in holding that defendant No.1 has entered into an agreement to sell the property with defendant No.2 ?

13. At the outset, it must be stated that apart from the aforesaid questions, the learned Advocate for the respondents in Second Appeal No.455/2023 and 457/2023 i.e. objectors raised a contention with respect to maintainability of the suit filed by the purchaser i.e. Regular Civil Suit No.15/2012, placing reliance on Section 77 of the Registration Act, 1908. The learned Advocate contended that the suit filed by the purchaser was not maintainable, in view of Section 77 of the Registration Act. She contended that the prayer in the suit was only for directions to the defendant No.1 vendor to register the sale-deed, which was already executed by him, according to the purchaser/plaintiff, and as such the suit was barred in view of Section 77 of the Registration Act.

14. The learned Advocate for the purchaser (plaintiff) in Regular Civil Suit No.15/2012 opposed the contention by drawing attention to the prayer clauses in the suit. It is contended that apart from direction to execute the sale-deed, the purchaser has also sought decree for perpetual injunction, restraining the defendants from disturbing his possession over the suit property and has also made alternate prayer for refund of sale consideration. The learned Advocate has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of *Kalavakurti Venkata Subbaiah Vs. Bala Gurappagari*

Guruvi Reddy, reported in *(1999) 7 SCC 114* in support of his contention.

15. The Hon'ble Supreme Court has held that Section 77 of the Registration Act will not be an adequate remedy, where in addition to direction for registration of sale-deed, the plaintiff seeks other reliefs such as recovery of possession and *mesne* profits or damages and civil suit filed in such a situation will be maintainable. In the case at hand, apart from the directions to register the sale-deed, the purchaser (plaintiff) has also prayed for decree for perpetual injunction against forcible dispossession and an alternate prayer is also made seeking refund of the same. In view of the aforesaid, the additional substantial question of law sought to be canvassed by the learned Advocate for the objectors, does no arise for consideration.

Substantial Question of law in Second Appeal No.148/2024 and substantial question of law No.1 in Second Appeal No.156/2024 :-

16. These two questions are pertaining to the execution of sale-deed dated 11/07/2007, stated to be executed by vendor in favour of the purchaser. The learned trial Courts in both the suits have recorded a finding that the purchaser has duly proved the agreement and payment of sale consideration of Rs.1,29,500/-. The purchaser has deposed in support of his contention regarding execution of sale-deed and payment of consideration. His evidence is supported by attesting witness to the

sale-deed. As against this, the vendor and objectors were unable to lead any cogent evidence to belie the contents of sale-deed, wherein it is recorded that sale consideration was paid by the purchaser and received by the vendor. The findings of fact recorded by the learned trial Court in both the suits on this aspect are based on appreciation of evidence on record. The learned first Appellate Courts in appeals arising out of both these suits have confirmed the findings on this aspect on reappraisal of evidence. It is seen that the vendor or objectors could not substantiate their contention that the sale-deed in question was a nominal document arising out of money lending transaction. It will be pertinent to mention that the attesting witness is the brother of the vendor, who has supported the case of purchaser regarding execution of document and payment of consideration. Perusal of his cross-examination does not indicate that there is any reason for him to depose against his brother i.e. vendor. It must also be stated that there is no evidence on record to suggest that the plaintiff is a moneylender. Therefore, these findings of fact recorded by the learned Courts do not warrant any interference. The learned Advocate for the objectors could not point out any perversity in the findings recorded by the learned Courts.

Question of law No.2 in Second Appeal No.156/2024 :-

17. Admittedly, the sale-deed in question could not be registered. Perusal of Section 54 of the Transfer of Property Act will indicate that a sale transaction is complete only upon registration of the sale-deed. Although execution of the sale-deed dated 11/07/2007 is proved, the transaction of sale is incomplete since the document is not registered. The sale-deed, dated 11/07/2007 cannot therefore be said to be a valid document of title in view of Section 54 of Transfer of Property Act. Substantial question of law No.2 accordingly deserves to be answered in favour of the objectors, who are appellants in Second Appeal No.156/2024.

**Substantial question of law No.(i) in Second Appeal
No.455/2023 and substantial question of law No.(ii) in Second appeal
No.457/2023 :-**

18. The vendor, who is defendant in the suit filed by the purchaser, died during the pendency of first appeal. However, application for bringing his legal representatives was not filed. The learned Advocate for the purchaser, therefore, contends that the appeal filed by the objectors stood abated. The contention of the learned Advocate is that although all legal representatives of the vendor were on record as appellants, their names were also required to be brought on

record as legal representatives of deceased – vendor, who was respondent No.2 in the appeals, filed by the objectors.

19. The contention of the learned Advocate for the purchaser cannot be accepted. Order XXII of the Code of Civil Procedure contemplates substitution of legal representative of a deceased already on record. It does speak about bringing names of legal heirs. Having regard to the facts of the present case, either the objectors, who are legal heirs or purchaser will represent the estate of the deceased vendor *qua* the suit property. The legal heirs i.e. objectors and purchaser both were parties in the first appeal. The contention that the appeal abates since legal heirs of vendor (objectors) were not brought on record as legal heirs, although, they were parties to the appeal as appellants, cannot be accepted. Even otherwise, the objection raised is technical in nature, since legal heirs and prospective purchaser were already on record. The same is, therefore, liable to be rejected having regard to mandate of Section 99 of the Code of Civil Procedure.

**Substantial Question of law No.(iii) in Second Appeal
No.455/2023 :-**

20. The objectors have filed suit, seeking decree for perpetual injunction against the vendor, who is husband of objector No.1 and father of other objectors from selling the suit property on the ground that the suit property is ancestral property and it was being sold by the

vendor only in order to satisfy his vices. The contention of the learned Advocate for the appellant/purchaser is that in such a situation, it was necessary for the objectors to file a substantive suit for partition and separate possession and that they could not seek injunction restraining the vendor from selling the suit property without making a substantive prayer for partition. The said contention is liable to be rejected.

21. It is well settled law that if coparceners of joint Hindu Family have any objection to sale transaction by any other coparcener or even Karta they can challenge the act of the coparcener or Karta in selling the property without filing a suit for partition. It will be appropriate to refer to judgment in the matter of *Parvati w/o Vishwanath Zangare and others Vs. Rasul s/o Sk. Abdul Musalman*, reported in *2014 (2) Mh.L.J. 457*.

Substantial question of law Nos.(i) and (ii) in Second appeal

No.455/2023 and Second Appeal No.457/2023 :-

22. The contention of the objectors is that the suit property is an ancestral property, which has come to the share of the vendor by virtue of earlier partition between them. As against this, the contention of the purchaser is that the vendor was absolute owner of the suit property and that the suit property was not joint family property. The objectors have duly proved partition-deed dated 22/04/1969 by virtue of which, partition of joint family properties had taken place between

the vendor, his brother and their father. Apart from this partition, dated 22/04/1969, whereby the suit property had fallen to the share of father of the vendor. The objectors have also proved partition-deed dated 11/08/1982 between the vendor, his father and brother. Both these documents of partition are registered documents. The documents are duly proved during the course of evidence of objector No.1 (widow of vendor). Apart from evidence of objector No.1, the objectors have also examined Talathi of the village, who has proved the relevant mutation entries, which show that mutation entries were recorded in favour of respective individual as per partition-deed dated 11/08/1982. Perusal of the partition-deed dated 11/08/1982 will demonstrate that 6.82 HR land in Survey No.81 i.e. the suit property was allotted to the share of father of the vendor and that it was further agreed that after his demise the said property was to be divided equally amongst his sons.

23. It is in this backdrop the question pertaining to the nature of property i.e. whether the suit property is separate property of the vendor or Joint Hindu Family property of the vendor and the objectors is required to be decided.

24. It cannot be disputed that the suit property, which is a part of Survey No.81 was ancestral property of the vendor, his brother and father as can be seen from the registered partition-deed, dated 22/04/1969 executed between them. A part of Survey No.81, including

suit property, had fallen to the share of father of the vendor in the said partition. In the subsequent partition dated 11/08/1982 between the father of the vendor, the vendor and his brother the said portion of Survey No.81, including the suit property, was allotted to the share of the father of vendor. Partition-deed provides that after demise of the father of vendor, land bearing Survey No.81 shall devolve upon his sons including the vendor. Accordingly, vendor became owner of the suit property after the death of his father. The suit property is thus inherited by the vendor from his father. It is not received by him in partition.

25. Dr. Sirpurkar, learned Advocate for the objectors has placed reliance on the judgments in the matter of *C. Krishna Prasad Vs. CIT, Bangalore*, reported in *(1975) 1 SCC 160*; *Rohit Chauhan Vs. Surinder Singh and others*, reported in *(2013) 9 SCC 419*; *Shyam Narayan Prasad Vs. Krishna Prasad and others*, reported in *(2018) 7 SCC 646*; and *Dattatraya Jaysingh Walke and others Vs. Jaysingh Dhondiba and another*, reported in *(2022) SCC OnLine Bom. 6506* to contend that a property which is received by a male Hindu in a partition becomes separate property *qua* his collaterals, however, with respect to his lineal descendants a property received in partition continues to be Joint Hindu Family property. Dr. Sirpurkar, therefore, contends that the suit property which was received by father of the vendor was Joint Hindu Family property of father of the vendor, the vendor and the objectors, who

immediately got right in the suit property by birth. It must be stated that the suit property is not received by the vendor under the partition-deed dated 11/08/1982. The suit property was received by father of the vendor in the said partition. The suit property became separate property of the vendor's father in view of the said partition. The vendor has inherited the suit property after demise of his father. Father of the vendor had admittedly died after commencement of Hindu Succession Act, 1956. The question is as to whether on a partition of Joint Hindu Family property between the father and his son(s), the property which is received by the father in the partition is his separate property or self-acquired property and after demise of the father whether the son(s) inherit/s the property under Section 8 of the Hindu Succession Act or receive the same by survivorship. If the property is received by survivorship, it will continue to retain character of ancestral property. However, if the property is received by succession or inheritance, as per Section 8 of the Hindu Succession Act the same will have the character of separate property of the son in view of Sections 8 or 19 of the Hindu Succession Act.

26. The judgments, on which reliance is placed by Dr. Sirpurkar, do not deal with a situation where there is a partition of Joint Hindu Family property between father and his son (s) and the property is inherited by the son(s) after commencement of Hindu Succession Act.

27. The question, which falls for consideration in the appeal, is directly answered by the Hon'ble Supreme Court in the case of *Commissioner of Wealth-tax, Kankpur etc. etc. Vs. Chander Sen etc. etc.* reported in *AIR 1986 SC 1753*. In the said case a father and his only son were carrying out business as a joint family business concern. During life time of the father, there was a partition of the business and the father and the son continued with the business by constituting a partnership firm. The son formed a separate joint family comprising of himself and his sons. After the death of father, the amount standing to his credit in the partnership firm devolved on his son. The Wealth Tax Authorities took into consideration this amount as property of Joint Hindu Family of the son. This was challenged by the son. The question before the Hon'ble Supreme Court was whether amount which was devolved on the son after demise of his father after commencement of Hindu Succession Act was separate property of the son or property of Joint Hindu Family of the son. The Hon'ble Supreme Court has observed that under Shastric Hindu Law, a property received by male Hindu from his male ancestor was received by survivorship and that every male member in the family had a right in such property from his birth. It is, however, observed that this position was drastically altered by the Hindu Succession Act, 1956. It is held that after commencement of Hindu Succession Act, a property of male Hindu, after his demise

devolves upon his Class-I legal heirs by succession/inheritance and does not go by survivorship. The Hon'ble Supreme Court has held that the property is received by the son under Section 8 of the Hindu Succession Act as a separate property and not as ancestral property. Perusal of judgment, particularly paragraphs 10, 11, 14, 19 and 20 leave no manner of doubt that a property inherited by Hindu male from his father is a separate property and not property of Joint Hindu family comprising of himself and lineal descendants.

28. It will also be pertinent to state that the suit property became separate property of the father by virtue of partition between himself and his sons on 11/08/1982. It will also be pertinent to mention that on the date of subsequent partition dated 11/08/1982, the objectors were not born. The property bearing Gat No.138 (Old Survey No.81) fell to the share of their grandfather. The property became separate property of the grandfather in view of the said partition. The objectors, therefore, cannot claim any right in land bearing Gat No.138 (Old Survey No.81) including the suit property by birth as coparceners.

29. For the reasons recorded above, the suit property must be held to be separate property of the vendor, since it is inherited by him from his father.

30. Therefore, the vendor had absolute right to sell the suit property. The objectors have no right to challenge the sale transaction

by the vendor in favour of the purchaser. The suit filed by the objectors therefore deserves to be dismissed and the suit filed by the purchaser needs to be allowed.

31. For the reasons recorded above, following order is passed :-

(i) Second Appeal Nos.455/2023 and 457/2023 are allowed.

(ii) Second Appeal Nos.148/2024 and 156/2024 are dismissed.

(iii) Judgments and decrees dated 05/10/2023, passed by the Ad hoc District Judge-2, Achalpur in Regular Civil Appeal No.99/2012 and Regular Civil Appeal No.100/2012 are quashed and set aside

(iv) Judgments and decrees, dated 12/07/2012, passed by the Civil Judge, Senior Division, Daryapur, District Amravati in Regular Civil Suit No.15/2012 (Old Special Civil Suit No.11/2008) and Regular Civil Suit No.39/2007 respectively are restored.

(v) Parties to bear their own costs.

(ROHIT W. JOSHI, J.)