



A-14-2025

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

CIVIL APPLICATION NO. 14 OF 2025
IN APPEAL AGAINST ORDER ST. NO. 4743 OF 2025
(Smt. Snehal wd/o Tushar Barde & Anr. Vs. Nil)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.M. Chandekar, Counsel for the applicants/appellants.

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CORAM : ANIL L. PANSARE, J.
APRIL 22, 2025

For the reasons set out in the application,
the application is allowed. Delay of 1 day in preferring
the appeal is condoned. Appeal be registered.

2] The application is disposed of.

APPEAL AGAINST ORDER ST. NO. 4743/2025

3] Heard.

4] The property under question, viz., flat situated at Gazetted Officers' Co-operative Housing Society, Mouza – Pandharabodi, Nagpur, was jointly purchased by Mrs. Lata Ramesh Barde and her son – Amol Ramesh Barde. Lata expired on 8/11/2020 leaving behind two sons and one daughter, namely, Amol, Tushar and Rucha. Lata's husband predeceased her. Lata's son Tushar expired on 4/8/2023 leaving behind Snehal – petitioner no.1 (original applicant no.1) and Rajas – petitioner no.2 (original applicant no.2) (minor).

5] The petitioners filed an application, being Miscellaneous Civil Application No. 712/2024, under

Section 8 of the Hindu Minority And Guardianship Act, 1956 (for short “Act of 1956”), seeking permission to sell their undivided share in the flat.

6] The trial Court rejected the application on the count that the property under question is a joint family property, and an adult member, i.e., petitioner no.1 is managing the property and, therefore, the Court has no jurisdiction to grant permission to sell the undivided interest of the minor.

7] This finding is challenged on the ground that the property under question is not a joint family property, but is a property purchased by two persons, of whom one has expired, and her legal heirs became owners by law of succession.

8] There appears substance in the submissions inasmuch as the flat under question was purchased by Lata and Amol. The immovable property is, thus, a self-acquired property of Lata and Amol. This self-acquired property cannot be said to be a joint family property merely because one of the owners has expired. The Class – I heirs will become owners in view of law of succession. The property, in the present case, will devolve upon the legal heir in terms of Section 14 of the Act of 1956. Thus, the finding that the property was a joint family property, is apparently erroneous.

9] Nonetheless, and towards abundant precaution, say of the co-owners should be called. The learned Counsel for the appellants submits that the co-

owners are ready to submit affidavit of no objection. Such affidavit, if filed, will serve the purpose.

10] The appellants shall, therefore, file affidavit of co-owners, namely, Amol and Rucha giving no objection for alienating undivided share of the petitioners.

11] Stand over to 24/4/2025.

(ANIL L. PANSARE, J.)

Sumit