



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

SECOND APPEAL NO. 251 OF 2025

Umaji Vithoba Shimbre and others **Vs.** Sakharam Vithoba Shimbre and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R. G. Kavimandan, Advocate for appellants.

Mr. N. A. Waghmare, Advocate h/f. Mr. P. B. Patil, Advocate for
Respondent No.1.

CORAM : ROHIT W. JOSHI, J.

DATE : 26.09.2025.

. The respondent No.1 has filed a suit for partition and separate possession against the defendants. In the said suit, the defendants came up with a defence that there was an oral partition in the family in the year 1980.

2. The learned Trial Court had decreed the suit, holding that the alleged oral partition could not be proved. It is observed that, although oral partition pertaining to properties of a Joint Hindu Family is permissible, there is no evidence on record to substantiate the alleged oral agreement. The learned Trial Court has also observed that the mutation entries also do not suggest that any such partition had taken place.

3. The defendants filed an appeal, being Regular Civil Appeal No.101 of 2015, challenging the said decree for partition. The learned First Appellate Court has also

confirmed the decree passed by the learned Trial Court for similar reasons.

4. Mr. Kavimandan, the learned Advocate for the appellants, is not in a position to point out any material to contradict the findings recorded by the learned Courts below that there is no evidence on record to infer an oral partition in the year 1980.

5. However, the learned Advocate contends that the properties, which are standing in the name of the plaintiff, are in fact, properties of the Joint Hindu Family, purchased from the funds of the Joint Hindu Family. He further contends that there is a pleading in the written statement stating that all the properties, which were the subject matter of the alleged partition in the year 1980, are not included in the suit and, as such, the suit is not maintainable.

6. It appears that the written statement came to be amended and a contention was raised that the properties purchased in the name of the plaintiff were, in fact, properties of the Joint Hindu Family.

7. I have perused the written statement, particularly paragraph 24 thereof. Although it is stated that all the properties, which form the subject matter of the alleged oral partition in the year 1980, are not included in the suit, the pleadings do not make reference to any particular property.

8. The learned Trial Court has elaborately dealt with the said contention in paragraph 16 of the judgment. The learned First Appellate Court has also confirmed the said finding by referring to the evidence on record. The findings recorded by both the Learned Courts are pure findings of fact. These findings, by no stretch of imagination, can be said to be perverse.

9. In that view of the matter, no substantial question of law arises for consideration. Therefore, the second appeal stands **dismissed**.

(ROHIT W. JOSHI, J.)

Tanmay