



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

SECOND APPEAL NO.268 OF 2018

1. Chandrababha Wd/o Vishnupant Mankar,
through legal representatives namely:

(Ori.Appellant No.1) (Ori.
Defendant) (dead)

- a. Mangesh S/o Vishnupant Mankar,
Aged 56 years, Occ: Business and Cultivator,
- b. Sau. Maya W/o Shivajirao Patil,
Aged 58 years, Occ: Household work,
C/o Shri S.S. Patil, 104, Himalaya Prestige Appt.
Near Mate Sq, Nagpur.
- c. Vidya D/o Vishnupant Mankar,
Aged 46 years, Occ: Legal Practitioner,
- d. Sucheta D/o Vishnupant Mankar,
Aged adult,
- e. Kiran D/o Vishnupant Mankar,
Aged 43 years, Occ: Household work,
- f. Seema D/o Vishnupant Mankar,
Aged 41 years, Occ: Household work
- g. Archana D/o Vishnupant Mankar,
Aged 39 years, Occ: Household work,

All appellants except 1(b) R/o Gupte
Mag, Jatharpeth, Akola, Tq.&Dist. Akola.

2. Mangesh S/o Vishnupant Mankar,
Aged 56 years, Occ: Service, At present
R/o Kamshet, Pune.

(Ori.Appellant No.2) (Ori.
Defendant No.2)

3. Vishnupant S/o Pandharinath Mankar
By legal representative namely -

(Ori.Appellant No.3) (Ori.
Defendant No.2) (dead)

- a) Mangesh s/o Vishnupant Mankar
Aged 54 years, Occ: Business and cultivator.

- b) Sau. Maya W/o Shivajirao Patil,
Aged 56 years, Occ: Household
C/o S.S. Patil, 104, Himalaya Prestige Appt.
Near Mate Sq, Nagpur.
- c) Adv. Vidya D/o Vishnupant Mankar
Aged 46 years, Occ: Legal Practitioner,
- d) Sucheta D/o Vishnupant Mankar,
Aged 45 years, Occ: Household work
- e) Kiran D/o Vishnupant Mankar
Aged 43 years, Occ: Household work.
- f) Seema D/o Vishnupant Mankar,
Aged 41 years, Occ: Household work
- g) Archana D/o Vishnupant Mankar
Aged 39 years, Occ: Household work

All R/o Gupte Marg, Jatharpeth, Akola,
Tq. & Distt. Akola except appellant 3(b)

...APPELLANTS

VERSUS

Annapurnabai Wd/o Ramkrushna Khumkar
Through L.R.

(Ori.Respondent) (Ori.
Plaintiff) (dead)

Madhukar Sampatrao Warulkar
Aged 65 years, Occ: Retired Teacher,
R/o Paras, Tq. Balapur, Dist. Akola.

...RESPONDENT

WITH

SECOND APPEAL NO.269 OF 2018

- 1. Chandraprabha Wd/o Vishnupant Mankar,
through legal representatives namely: **...(Dead)**
- a. Mangesh S/o Vishnupant Mankar,
Aged 56 years, Occ: Business and Cultivator,
- b. Sau. Maya W/o Shivajirao Patil,
Aged 58 years, Occ: Household work,
C/o Shri S.S. Patil, 104, Himalaya Prestige Appt.
Near Mate Sq, Nagpur.

- c. Vidya D/o Vishnupant Mankar,
Aged 46 years, Occ: Legal Practitioner,
- d. Sucheta D/o Vishnupant Mankar,
Aged adult,
- e. Kiran D/o Vishnupant Mankar,
Aged 43 years, Occ: Household work,
- f. Seema D/o Vishnupant Mankar,
Aged 41 years, Occ: Household work
- g. Archana D/o Vishnupant Mankar,
Aged 39 years, Occ: Household work,

All appellants except 1(b) R/o Gupte
Mag, Jatharpeth, Akola, Tq.&Dist. Akola.
(On RA)

...APPELLANTS

VERSUS

Annapurnabai Wd/o Ramkrushna Khumkar
Through L.R.
Madhukar Sampatrao Warulkar
Aged 65 years, Occ: Retired Teacher,
R/o Paras, Tq. Balapur, Dist. Akola.

...(Dead)

...RESPONDENT

Shri C.S. Kaptan, Senior Advocate a/b Shri Sachin Zoting, Advocate for appellants.
Shri R. L. Khapre, Senior Advocate a/b Shri N.S. Warulkar, Advocate for respondent.

CORAM:- M.W. CHANDWANI, J.
RESERVED ON :- 1st JULY, 2025
PRONOUNCED ON :- 19th SEPTEMBER, 2025

JUDGMENT:

1. The appeals challenge the judgment and decree dated 15.02.2016 passed by the learned Civil Judge Senior Division, Akola in Special Civil Suit No.3/1979 as well as the judgment and decree dated 22.03.2018 passed by the learned District Judge-2, Akola in Regular Civil Appeal Nos.30/2016 and 42/2016.

A brief resume of the facts is as under:

2. Annapurnabai, the original plaintiff, filed a suit for declaration, possession and permanent injunction, *inter alia*, claiming that Tukaram Ramaji had two sons namely, Ramkrushna and Govindrao. Govindrao predeceased Tukaram on 08.12.1936 and his widow Shakuntala remarried immediately after the death of Govindrao. Tukaram died on 07.01.1938; whereas Bhagirathibai, the widow of Tukaram and the mother of Ramkrushna and Govindrao died in the year 1955. Ramkrushna being the sole surviving coparcenor became the sole owner of the suit property inherited by him. Ramkrushna died on 02.08.1978. After his death, Annapurnabai became the absolute owner of the suit property. Plaintiff – Annapurnabai learnt that, on 26.12.1969 deceased Ramkrushna had effected partition of the suit property inherited by him amongst Annapurnabai and Chandraprabha wherein, Chandraprabha got some portion of the suit property. According to Annapurnabai, Chandraprabha was not entitled to any share in the suit property left by deceased Tukaram as Ramkrushna was the sole owner of the suit property. Therefore, the partition deed dated 26.12.1969 is void and not binding on her. It was also the case of Annapurnabai that after the death of

Ramkrushna, Chandraprabha (defendant no.1) alongwith her husband Vishnupant (defendant no.3) and son Mangesh (defendant no.2) stayed with her. By taking undue advantage of the fiduciary relationship between them, on 10.09.1978 the defendants got the sale-deed with respect to item No.2 of the house property in Schedule A of the plaint and the gift deed in respect of item no.4 of the field property and item no.1 of the house property in Schedule-A executed in favour of Chandraprabha (defendant no.1) without passing any consideration. On 12.09.1978, defendants also got another sale-deed in respect of field survey no.213/2 of village Belkhed in favour of Mangesh (defendant no.2) and will deed in respect of item no.3 of the field property and item no.3 of the house property of Schedule A in favour of Chandraprabha (defendant no.1) by taking thumb impression. All these documents were obtained by playing fraud upon Annapurnabai and therefore, by filing a suit, cancellation of these documents was sought apart from possession and injunction in respect of the suit property.

3. The defendants appeared and filed their written statement. They came-up with a case that Chandraprabha got some of the suit property in partition and some suit property by

way of will deed, sale-deeds and gift deed duly executed by Annapurnabai. Therefore, the transactions are valid transactions and sought dismissal of the suit.

4. The trial Court partly decreed the suit in favour of Annapurnabai with regard to the sale-deeds, gift deed and will deed and by the impugned order, declared that the gift deed, sale-deeds and will deed are void, illegal and not binding on Annapurnabai. However, the trial Court refused to declare the partition deed dated 26.12.1969 as void.

5. Dissatisfied with the decree of the trial Court, Annapurnabai as well as Chandraprabha alongwith her husband and son filed two cross-appeals. The learned District Judge, Akola by the impugned judgment and decree dated 22.03.2018 allowed the appeal filed by Annapurnabai and also declared the partition dated 26.12.1969 as *void ab initio*. Whereas, the appeal preferred by Chandraprabha, her husband and son came to be dismissed.

6. It is to be noted here that, during the pendency of the appeal before the first appellate Court, Chandraprabha died in the year 1999 and her legal heirs were brought on record. Feeling aggrieved with allowing of the appeal filed by Annapurnabai and

dismissal of their appeal, the legal heirs of Chandraprabha i.e. her husband Vishnupant and son Mangesh filed the present appeal. Second Appeal No.268/2018 has been filed against allowing of the first appeal filed by Annapurnabai regarding the validity of the partition deed. Whereas, Second Appeal No.269/2018 has been filed against the dismissal of the appeal filed by the original defendants regarding the validity of the gift deed, will deed and the sale-deeds.

7. By orders dated 09.08.2018 and 01.07.2025, the following substantial questions of law were framed:

“A) Whether a suit for declaration of a document being illegal / void-ab-initio in the eyes of law, is maintainable after the passing away of three years from its execution and registration? [in this case the document styled as a Partition deed was executed and registered on 26.12.1969 and the suit for declaration was filed on 05.01.1979]

C) What is the effect of the first proviso to Section 3(1) of the Hindu Women’s Right to Property Act, 1937 in respect of the property held by Tukaram (dead 07.01.1938) the father of Ramkrishna and Govindrao (dead 08.12.1936)?

F) Whether a plea of fraud in the execution of multiple documents, Will deed, Gift deed and sale deed, which are registered, as per the requirement of the Registration Act, 1908, can be held to be proved, merely on the basis of presumption, conjectures and surmises, specifically so, when the person who raises such a plea, has not entered into the witness box? ”

G) Whether a plea of fraud, undue influence, coercion, can

be proved by the witness of a person, who was not in the picture when, the documents (dated 1978), in respect of which this plea is being taken, were executed and registered? [In this case Annapurnabai (dead 18.07.1983), did not enter the witness box [evidence commenced 2015), but it was Madhukar, who claimed himself to be her legatee under a Will dated 04.03.1980, who had entered the witness box]

(I) Whether the party to a document (in this case a registered partition deed dated 16.12.1969), which such party has acted upon and taken benefit there under (by disposing off part of the property received under such a document by way of a sale deed) is entitled to turn around and raise a plea of the document/ partition deed, having been vitiated by illegality ?

(J) Whether the execution and registration of a document jointly (in this case a partition deed dated 26.12.1969 between Ramkrishna + his wife Annapurnabai + his niece Chandraprabha, which has been acted upon by the parties) constitutes a 'Fraud', as defined in Sec.17 of the Contract Act, 1872, so as to declare the document as null and void ?

(K) Whether a registered document (in this case a partition deed dated 26.12.1969) becomes a document void ab-initio for the reason that it grants share to a person, who otherwise being a member of the family (being a niece)?

8. Deceased Annapurnabai came-up with a case that the gift deed dated 10.09.1978 in favour of defenant no.1, sale-deeds dated 10.09.1978 and 12.09.1978 in favour of defendant no.3 and defendant no.2 respectively and will deed dated 12.09.1978 in favour of defendant no.1 have been obtained by playing fraud upon her under undue influence and therefore, these are not binding upon her.

9. Indisputably, all these four documents were executed by deceased Annapurnabai merely 40 days after the death of her husband. Moreover, these four documents have been executed and registered within three consecutive days i.e. on 10.09.1978, 11.09.1978 and 12.09.1978. Evidently, Annapurnabai was illiterate and old at the time of execution of these documents. All the attesting witnesses and the scribe in all the documents impugned i.e. gift deed, two sale-deeds and will-deed are common. It is a matter of record that neither any attesting witnesses have been examined nor the scribe has been called by the appellants to prove that the document was scribed at the instance of Annapurnabai. Moreover, there is no evidence from the appellants' side to show that the contents of the documents were read over to Annapurnabai. In addition to that, Annapurnabai filed the suit within a period of four months from the execution of the documents in question.

10. In this background, let us appreciate the arguments advanced by learned Senior Counsel Shri Kaptan appearing for the appellants. Shri Kaptan would submit that Annapurnabai was not examined in the case since she died during the pendency of the suit. Merely by relying on the evidence of her nephew - Madhukar,

it has been held by the trial Court as well as the appellate Court that those documents were obtained by the original defendants by playing fraud and under undue influence. He stressed on the point that Madhukar, the nephew of Annapurnabai was not a party to the documents, nor was he present at the time of execution of the documents. Therefore, in absence of any evidence of Annapurnabai, the trial Court and the first appellate Court erred in holding that fraud and undue influence has been duly proved by respondent–Madhukar.

11. Let me state here that, Annapurnabai filed the suit within four months of execution of the said documents i.e. in the year 1979 and she died during the pendency of suit on 18.07.1983. It is a matter of record that unfortunately, the evidence before the trial Court commenced in the year 2015 i.e. almost after 32 years of filing of the suit. Axiomatically, Annapurnabai could not have been examined in the year 2015. The inference of proof of a fact in dispute can be drawn from the proved facts, direct or circumstantial. The ultimate test of a fact proved is, if the Court either believes that a fact exists or considers its existence so probable that a prudent man ought, under the circumstances of a particular case, to act on the supposition that it

exists. Therefore, merely because Annapurnabai could not be examined due to her death, it cannot be said that the fraud played upon her cannot be proved with the help of other proved circumstances.

12. In the present case, the circumstances relied upon by the trial Court as well as the first appellate court mentioned above are appearing on the face of record. Rather, it is not the case that the trial court and the first appellate court after relying on the evidence of Madhukar directly on the issue have opined that these documents have not been executed by Annapurnabai consciously. Therefore, just because Annapurnabai could not be examined, the other material available on record cannot be ignored. Even otherwise, it can be inferred from other evidence/material on record that the documents were not executed by Annapurnabai consciously.

13. The learned trial Court as well as the first appellate Court have rightly opined that all these documents were executed by the original defendants from Annapurnabai just after 40 days from the death of her husband and within three consecutive days which itself creates a strong suspicion coupled with other

circumstances mentioned above. I do not find any error in the concurrent findings of the trial Court as well as the first appellate Court, more particularly considering that deceased Annapurnabai was an illiterate lady. Hence, the burden lies on the original defendants to prove that Annapurnabai executed these documents consciously, which they failed to prove. I answer substantial questions of law 'F' and 'G' accordingly.

14. This takes me to the next submission of the learned Senior Counsel Shri Kaptan who vehemently submitted that Shakuntala, the mother of Chandraprabha, who was the widow of the predeceased son of deceased Tukaram i.e. Govindrao was having interest in the ancestral property at the time of her death. Therefore, in wake of the first proviso to sub-section (1) of Section 3 of Hindu Women's Right to Property Act, 1937 (for short "**the Act of 1937**") deceased Shakuntabai also got interest in the suit property to the extent of share of deceased Govindrao and Ramkrushna, the husband of Annapurnabai will not get the entire ancestral property by survivorship. Chandraprabha will inherit the property of Shankuntabai being her daughter.

15. Indisputably, the right under the Act of 1937 is also created in the favour of the widow of a predeceased son of a Hindu male having interest in the coparcenary property. Shakuntalabai was the widow of Govindrao, the predeceased son of Tukaram; however, the contention that Shakuntalabai got the interest in wake of the proviso to Section 3(1) of Act of 1937 will not hold water simply because Govindrao died on 08.12.1936 i.e. before the Act of 1937 came into force and immediately after his death, she got remarried. Secondly, even otherwise by virtue of Act of 1937 she will get limited interest in the property of Tukaram till the year 1956, when Section 14 of the Hindu Succession Act (for short, “**the Act of 1956**”) came into force making a Hindu woman having limited interest in the suit property as her absolute property. There is nothing on record to show that Shakuntalabai was alive on the date of enforcement of the Act of 1956 to dislodge the principle of reversion of property on the surviving coparcener i.e. Ramkrushna, other son of Tukaram and the husband of Annapurnabai.

16. With regard to the issue of partition deed, indisputably, Tukaram-the father and Ramkurshna as well as Govindrao-the sons were coparceners. Govindrao predeceased Tukaram and

Ramkushna; whereas, the widow of Govindrao remarried immediately after his death. Chandraprabha, the daughter of Govindrao being a female was not a coparcener in wake of the old Hindu law prevailing at that time. After the death of Tukaram, (in the year 1938) his widow Bhagirathi (in the year 1955) and Govindrao (in the year 1936), Ramkrushna was the sole surviving coparcener and therefore, the ancestral property at the hands of Ramkrushna was in the nature of separate property.

17. Though, the trial Court held that the sale-deeds, gift deed and will deed executed by Annapurnabai were not binding on her for the reasons mentioned supra, it did not grant relief in respect of the partition deed on the ground that Annapurnabai was a party to the said partition deed and did not challenge the same for about 9 years. Therefore, her claim for partition is time barred. The first appellate Court while concurring with the findings of the trial Court with regard to the sale-deeds, gift deed and will deed held that Chandraprabha had no pre-existing right since she was not a coparcener, declared the partition deed *void ab initio* and consequently, held that law of Limitation will not be applicable to a challenge to partition deeds.

18. Shri Kaptan, learned Senior Counsel would submit that, even though Chandraprabha was not entitled to any share in the ancestral property of deceased Tukaram but after the death of Tukaram, Ramkrushna was the sole surviving member of the copercernary property and therefore, the property in his hands will have the character of separate property. According to him, Ramkrushna could have disposed of the property in the manner in which he likes including bringing his separate property into the common hotchpot for partition. There is no bar in bringing one's separate/self acquired property into the common hotchpot and making the said property available for partition. To buttress his submission, he seeks to rely on the decision of this Court in the case of *Damodar Krishnaji Nirgude Vs. Commissioner of Income Tax, Bombay*¹ wherein, the principle of Hindu law that a Hindu male can throw his self-acquired property into the common hotchpot of a Hindu undivided family consisting of himself, his wife and minor son has been reiterated.

19. Conversely, the learned Senior Counsel Shri Khapre would submit that the daughter did not have a pre-existing right in the suit property and therefore, she cannot claim partition of

¹ [1962] 46 ITR 1252(BOM)

the suit property. He supported the findings recorded by the first appellate Court and also relied on the decision of the Supreme Court in the case of ***Hiraji Tolaji Bagwan vs. Shakuntala***¹ wherein, in para 7 it has been observed as under:

“7. In all the three partitions effected on July 31, 1949, December 16, 1950 and June 29, 1959, wife was one of the parties to the partitions. In the third partition made on June 29, 1959 besides his wife, the other parties to the partition were two minor daughters. Secondly, the same property is shown to have been partitioned by Brij Lal on three occasions. Admittedly, the partition of June 29, 1959 is between Brij Lal on the one hand and his wife and two minor daughters including the respondent on the other. This partition was obviously contrary to the provisions of Hindu Law. Hence the respondent in any case could not have become a landlady of the suit land because it is in this third partition of June 29, 1959 that the said land is alleged to have gone to the share of the respondent. The High Court dismissed this contention with regard to the patent illegality by giving a spacious reason that the question referred to the Tehsildar in its earlier remand order, namely the validity or otherwise of the partition, was investigated by the three authorities and that they had given a finding upholding the partition. The High Court further held that what was produced before the courts below was a family settlement and since the said family settlement created a right in favour of the respondent she should be held to have become the owner of the suit land. Unfortunately, the High Court lost sight of the fact that the family settlement which is accepted by the Courts in lieu of partition, is a settlement which gives share to the parties as per their legal entitlement and not a settlement which is made or purported to have been made to circumvent the law. A partition of the property can only be among the parties who

1 (1990) 1 SCC 440

have a preexisting right to the property. Under the Hindu Law, a female, major or minor has no share in the ancestral property. A female is given a share either in the self-acquired property of the husband or the father, or in the share of the husband or the father in the coparcenary property after the property is partitioned. There cannot, therefore, be a partition and hence a family settlement with regard to the ancestral property so long as it is joint, in favour of either the wife or the daughter. Since this obvious illegality was ignored by the High Court, it will have to be held that the High Court's decision was patently wrong. The respondent, therefore, never became the landlady of the land and it was Brij Lal who continued to be the landlord of the same. Hence the notice given by the respondent and the proceedings for eviction adopted by her are misconceived. Her application for possession of the land has, therefore, to be dismissed."

20. Here is a case where Chandraprabha, the niece of Ramkrushna, who was not a member of the Hindu joint family/coparcener was given a share in the suit property alongside Annapurnabai in the year 1969 by Ramkrushna, the husband of Annapurnabai, by effecting partition by a registered partition-deed of the suit property.

21. No doubt, Chandraprabha was not a coparcener being the daughter of a predeceased coparcener and did not have any share in the suit property, however, deceased Ramkrushna was the sole coparcener, as the property held by him in the year 1969 was in the nature of self-acquired property, since, Annapurnabai

was also not a coparcener. Ramkrushna himself chose to give a share in the suit property to his niece for the reasons best known to him which cannot be said to be a property given in a partition of ancestral property. In the year 1969, the right of Annapurnabai was not affected by reason of giving a share to Chandraprabha, since Ramkrushna being sole the surviving coparcener could have disposed of the property which was in the nature of his separate property as per his wish. Thus, though Chandraprabha was not having a pre-existing right in the suit property but, because the sole surviving co-parcener Ramkrushna was entitled to dispose of the coparcenary property as if it was his separate property, the transfer of a portion of suit property to Chandraprabha by way of partition deed in 1969 cannot be said to be illegal. In the decision of *Hiraji* (supra) relied upon by the respondent, the Supreme Court has also observed that a female can be granted a share either in a self-acquired property or in coparcenary property after the property is partitioned. This being the position, the property assumed to be separate property of Ramkrushna could have been validly transferred to Chandraprabha according to his freewill. That apart, the right of Annapurnabai in the year 1969 cannot be said to be affected by the reason that Ramkrushna gave a share to his niece Chandraprabha. By the said transfer, the share of Annapurnabai in the ancestral property is not reduced. Hence, the

transaction cannot be treated as *void ab initio*. The findings of the learned first appellate Court that the partition of 1969 is *void ab initio* and therefore, Law of Limitation is not applicable is erroneous.

22. Article 58 (Schedule-II) of the Limitation Act prescribes the period of limitation for seeking any declaration as three years. Evidently, Annapurnabai was a party to the said partition deed and was aware that Ramkrushna had granted a share to Chandraprabha on the day of execution of the document itself in the year 1969. She ought to have challenged the said partition deed within three years from the date of execution of the document; however, the suit has been filed after ten years and therefore, it is barred by law of limitation. A reference can be made to the decision of the Supreme Court in the case of ***Rajpal Singh Vs. Saroj (deceased) through legal representatives and another***¹, wherein it has been observed that when a composite suit is filed for cancellation of sale deed as well as for recovery of possession, the limitation period with respect to the substantive relief of cancellation of the sale-deed is required to be considered, which would be three years from the date of knowledge of the sale-deed sought to be cancelled. The substantial questions are

¹ (2022) 15 SCC 260

answered accordingly. The learned first appellate Court erred in overturning the findings of the trial Court that the suit to the extent of the partition deed is barred by law of limitation. The said finding is required to be restored.

23. It is pertinent to note here that the appellant has filed an application for production of additional documents i.e. Index copy of the sale-deed executed by Annapurnabai of the land allotted to her in the said partition of the year 1969 on the premise that this document was not within the knowledge of the appellant and therefore, it could not be filed before the trial Court or the first appellate Court. It is only after the decree of the trial Court was reversed by the first appellate Court that the appellant came to know about this sale-deed executed by deceased Annapurnabai. Admittedly, this transaction is between Annapurnabai and third party. The defendants not being a party to the sale-deed may not be aware of this transaction before. The said fact has been stated on affidavit. On the other hand, the said fact has not been denied by the respondents by filing affidavit. Further, the document which is sought to be filed is a certified copy of the Index which is a public document and therefore, a case is made out for permission to file the said document on record.

24. Needless to mention that, by the same partition deed in the year 1969, Annapurnabai also got a share in the property of Ramkrushna. Bare perusal of the said Index reveals that Annapurnabai during the lifetime of her husband, has sold the property of Survey No.294/4 area 2.10 which she got in the partition to third party. Therefore, the said partition has been acted upon. Needless to mention that, Ramkrushna, her husband who was alive for about 10 years after the transfer also did not challenge the transfer made by her; rather, he did not intend to. Annapurnabai was also a signatory to the registered partition-deed. After ten years, she cannot dispute the transaction in which she was also one of the parties. Therefore, this claim made by Annapurnabai is hit by the doctrine of acquiescence and the law of estoppel.

25. So far as the substantial question of law at serial (J) is concerned, there are no pleadings with respect to the fact that fraud had been played during the execution and registration of the partition deed. Therefore, the substantial question of law at serial (J) does not arise.

26. In view of the above discussion, the Second Appeal

No.269/2018 is dismissed. The finding of the first appellate Court and the trial Court declaring the sale-deeds dated 10.09.1978 and 12.09.1978, gift deed dated 10.09.1978 and will deed dated 12.09.1978 is confirmed. The findings of the first appellate Court declaring the partition deed as not binding on Annapurnabai are hereby set aside. Second Appeal No.268/2018 is allowed in above said terms. Consequently, the judgment and decree passed by the trial Court is restored.

JUDGE

At this juncture, the learned counsel for the appellants submitted that the interim relief granted by this Court be continued for a further period of four weeks. The matter is of the year 1979 and almost 45 years have gone by. Therefore, considering the facts and circumstances of the case, the request made by the learned counsel for the appellants is refused.

JUDGE

Wagh