



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

SECOND APPEAL NO.242 OF 2025

APPELLANTS
(Ori. Plaintiffs)
(On R.A.)

- : 1. **Sejal Jayant Ingole,**
Aged about – 23 Years, Occ: Education,
R/o : Post : Ashtoli, Tah : Morshi, District :
Amravati.
2. **Shrusti Jayant Ingole,**
Aged about – 17 Years, Occ : Education
Appellant No.2 is minor through her
Guardian Mother, Sau. Archana Jayant
Ingole,
Aged about 45 Years, Occ : Household,
R/o : Post : Ashtoli, Tah : Morshi, District :
Amravati.

..VERSUS..

RESPONDENT
(Ori. Defendants)
(On R.A.)

- : 1. **Hemant Ramchandra Ingole,**
aged about 62 years, Occ : Business, R/o :
Near Someshwar Margdarshan, Rukmini
Nagar, Amravati, Tah and Distt : Amravati.
2. **Jayant Ramchandra Ingole,**
aged about 57 years, Occ : Business, R/o :
Near Someshwar Margdarshan, Rukmini
Nagar, Amravati, Tah and Distt : Amravati.
3. **Sau. Pramila Bai Sahebrao Bhujade,**
Aged about 72, Occ : Household, R/o : Jay
Amba Apartment, Flat No.13, Chakrapani
Colony, Near Ajinkya Colony, V.M.V.
Road, Amravati, Tah and Distt : Amravati.
4. **Sau. Aruna Shridhar Raut,**
Aged about 69, Occ : Household, R/o :
Kady lay-out, Plot No.29, Panchwati
Behind Kadu Petrol Pump, Katol, District :
Nagpur.

5. **Sau. Sandhya Narendrarao Ghugul,**
Aged about 52 years, Occ : Household,
R/o : Cotton Grain Colony, Near
Navodaya Vidhyalaya, Navsari Road,
Amravati, Tah and Distt : Amravati.
6. **Naresh Triambakrao Ingole,**
Aged about 70 years, Occ : Retired, C/o :
Kisanrao Deshmukh House, R/o : Prasad
Colony, Moti Nagar Road, Amravati, Tah
and Distt : Amravati.
7. **Manoharrao Triambakrao Ingole (Dead)**
 - 7(i) **Smt. Aruna Manohar Ingole,**
Aged about 67 years, Occ : Household,
R/o : Type -3, Near State Bank, Jawahar
Nagar, Bhandara, Tah and Distt ;
Bhandara.
 - 7(ii) **Amir Manohar Ingole,**
Aged about 52 years, Occ : Service, R/o :
Type - 3, Near State Bank, Jawahar Nagar,
Bhandara, Tah and Distt ; Bhandara.
 - 7(iii) **Ku. Asmita Manohar Ingole,**
(Erstwhile name now named as
Sau. Asmita Ashwin More),
Aged about 42 years, Occ : Household,
R/o: Chandrarang Harmony Damodhar
Jagtap Khot, Prabhat Nagar, Pimple Gurav,
Pimpri Chinchwad, Pune.
8. **Sau. Jyoti Prakashrao Kolhe,**
(Died on 04/11/2022 after the
pronouncement of Judgment of Learned
Lower Court) Through her legal heirs
 - 8(i) **Prakashrao Gunwantrao Kolhe,**
Aged about 72 years, Occ: Business,
Gurupushpa Amrur Apartment, Shivarasit
Nagar, Kathora Road, Near Balaji Traders,
Amravati, Tah and Distt : Amravati.

8(ii) Sau. Deepa Abhijit Tale,

Aged about 46 years, Occ : Household,
R/o : Jay Amba Garden City, Jaswant
Building, 3rd Floor, Navsari, Amravati, Tah
and Distt : Amravati.

8(iii) Sau. Minal Milind Raut,

Aged about 43 years, Occ : Household,
Gurupushpa Amrur Apartment, Shivarasit
Nagar, Kathora Road, Near Balaji Traders,
Amravati, Tah and Distt : Amravati.

Mr S. V. Sohoni, Advocate for Appellants.

CORAM : M. W. CHANDWANI, J.

DATED : 25th AUGUST, 2025.

JUDGMENT

1. Heard.

2. The appeal challenges the order dated 21.10.2023 passed by the 4th Joint Civil Judge Senior Division, Amravati, in Special Civil Suit No.160 of 2023 which was confirmed by the District Judge – 2, Amravati by its judgment and order dated 08.05.2025 passed in Regular Civil Appeal No.233 of 2023.

3. The appellants herein filed a suit bearing Special Civil Suit No.160 of 2023 for declaration, partition and separate possession of the suit property. The appellants claimed that the judgment and decree dated 06.03.1998 passed in Special Civil Suit

No.268 of 1995 was obtained by all the respondents by playing fraud in collusion with each other and therefore, they sought to declare it null and void as it is not binding on them. According to appellant No.1, the suit property was actually purchased by her paternal grandfather Ramchandra out of the funds of the Hindu Undivided Family and therefore, she being the granddaughter, has a share in the suit property. According to her, though her father Jayant Ingole defended the earlier suit i.e. Spl. Civil Suit No.268 of 1995, but he could not protect the interest of the appellants. Therefore, she sought partition in the suit property.

4. Respondent Nos.6, 7(i to iii) and 8(i to iii) appeared in the suit and filed an application for rejection of plaint on the count that the issue had already been decided in the earlier suit through the Hon'ble Supreme Court and therefore, the present suit is barred by the principles of *res judicata* and the appellants have no cause of action. The Trial Court by its impugned order rejected the plaint of the appellants. The appellants made an unsuccessful attempt before the First Appellate Court. Feeling aggrieved with the judgment and decree dated 08.05.2025 passed by the First Appellate Court, this appeal came to be filed.

5. The Trial Court opined that the suit is barred because all rights in respect of the suit property have already been settled in the earlier Special Civil Suit No.268 of 1995. Therefore, the present suit is barred by the principles of *res judicata*. It is also observed by the Trial Court that the plaint does not disclose the details of fraud and therefore, the plaint came to be rejected. Though, the First Appellate Court did not address the issue of *res judicata* but held that no right accrued in favour of the appellants to sue the respondents, since the fraud alleged by the appellants was not mentioned in the plaint.

6. Indisputably, in the earlier suit, the father of the appellants was claiming to be the co-owner of the suit property. The said claim was rejected by the Trial Court. The findings of the Trial Court were confirmed by the First Appellate Court. Though, in Second Appeal No.324 of 2002, the findings of the Trial Court as well as the First Appellate Court were overturned but ultimately, the Hon'ble Supreme Court restored the findings of the Trial Court holding that Ramchandra had no share in the suit property. In the present case, the appellants came up with a case that the respondents in collusion with each other have obtained the decree

in the earlier suit by playing fraud. The appellants have come up with a case that their father failed to protect their interest. The decree obtained in the earlier suit was obtained by playing fraud in collusion with all the respondents. Except this statement, there is nothing in the plaint to suggest what fraud has been played upon the appellants. The First Appellate Court has rightly quoted the Order VI Rule 3 of the Code of Civil Procedure which contemplates that details of the fraud alleged are to be specifically pleaded. Therefore, the First Appellate Court was right in observing that the plaint, in real sense does not disclose the cause of action arising out of any specific event on date.

7. Needless to mention that the right of appellants' father in the suit property has been crystallized in earlier suit wherein, no plea of joint family property was taken and the said findings attained finality in wake of the decision of the Hon'ble Supreme Court in Civil Appeal No(s).8859 of 2019. Therefore, the appellants cannot claim a right that is already foreclosed through their father Jayant Ramchandra Ingole. If this is allowed, then the dispute will continue perpetually and can never be put to rest.

8. No perversity is found in the order of the Trial Court as well as the judgment and decree of the First Appellate Court. The appeal is devoid of merits and hence, it is **dismissed**.

(M. W. CHANDWANI, J.)

Tambe.