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

907 SECOND APPEAL NO. 567 OF 2026

SMT. KALABAI KASHINATH PATIL (DEAD) THR LRS
USHABAID DIED THROUGH LRS YUVRAJ FULA PATIL AND OTHERS
VERSUS
TUKARAM SHENPHADU PATIL AND OTHERS
...
Advocate for Appellants : Mr. Pandurang S. Koshti.
Advocate for Respondent Nos.1A & 1B : Mr. Girish Rane.
Advocate for Respondent Nos.2A(1) to 2A(4) : Mr. Sahil S. Jawale, h/f Mr. B. R. Warmaa.

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WITH
CIVIL APPLICATION NO. 14209 OF 2023
IN SA/567/2026
WITH
CIVIL APPLICATION NO. 12762 OF 2026
IN SA/567/2026
...

CORAM : **SANJAY A. DESHMUKH, J.**
DATE : 04th November, 2026.

P.C.:

SECOND APPEAL

1 Heard learned counsel for the appellants.

2 The learned counsel for the appellants pointed out pleadings, the evidence and the impugned judgment and the Appellate Court. He pointed out substantial questions of law and submitted that original partition is with respondent, but a copy of the partition deed is with the plaintiff, which was executed on 1st June, 1963. It was not produced in the Trial Court. He submitted that said document is admissible in

evidence, but it was not produced. He, therefore, submitted that appellants may be permitted to file the said document as additional evidence, and substantial questions of law may be framed accordingly.

3 Perused the judgments of the Trial Court and Appellate Court. No doubt, there is concurrent findings that partition is not proved. A copy of the partition deed dated 1st June, 1963 is now shown to the Court, however, the application is not filed to produce the said document and it is not known as to whether the said document is filed or not.

4 Considering all these aspects, the appeal is **Admitted** on following substantial questions of law:

I. Whether the evidence was properly appreciated and reappreciated by the learned Trial Court and Appellate Court ?

II. Whether the case is made out for remanding the suit for trial on the basis of alleged copy of the partition deed ?

5 Issue notice to the respondents, returnable on 25th November, 2026. Mr. Girish Rane, learned counsel waives service of notice on behalf of respondent Nos.1A and 1B. Mr. B. R. Warmaa, learned counsel waives notice on behalf of respondent Nos.2A(1) to 2A(4).

6 Call for record and proceedings.

CIVIL APPLICATION NO. 12762 OF 2026

7 This application is filed seeking directions against the respondents that they shall not transfer the suit property by any means.

8 Perused the application. Heard the learned Advocates for both the sides.

9 The appeal has been admitted. If interim relief is not granted, the very purpose of filing of the appeal would be frustrated. The application, therefore, deserves to be allowed.

10 Hence, the respondents shall not transfer the suit property by any means. Civil Application No.12762 of 2026 stands disposed of.

[SANJAY A. DESHMUKH, J.]

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