IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

988 SECOND APPEAL NO. 530 OF 2026

Usha Trimbak Desai
VERSUS
Madhav Narayan Kurhe And Others
...
Mr. Kale Mahesh P., Advocate for Appellant
Mr. Ramesh I. Wakade, Advocate for Respondents
....

CORAM : SANJAY A. DESHMUKH, J.
DATE : 07.10.2026

P.C. :-

1. This Appeal is preferred against the judgment and decree passed by the learned District Judge, Gangakhed, District Parbhani in Regular Civil Appeal No.29 of 2012 dated 21.02.2019 which was preferred against the judgment and decree passed by the learned Civil Judge, Junior Division, Palam District Parbhani in Regular Civil Suit No.138 of 2008 (Old R.C.S. No.200 of 2007) dated 23.08.2012.

2. Heard the learned Advocates for both sides.

3. Learned Advocate for the Appellant/original plaintiff submitted that Respondent No.1 is the father of the Appellant, whereas Respondent No.2/Sheshikala W/o Madhav Kurhe was the mother of the Appellant. It is submitted that Respondent No.2 is

died and her legal representatives, viz., the Appellant and Respondent No.1 are already on record. Learned Advocate for the Appellant therefore seeks leave to delete the name of deceased Respondent No.2.

4. Leave granted. The amendment shall be carried out accordingly.

5. Learned Advocate for the Appellant pointed out the reasons in the impugned judgment and the judgment of the Trial Court. He fairly submitted that land Block No.35/1/B locally known as “Mala” admeasuring 20 R, Block No.72/1/B admeasuring 44 R, Block No.72/6/B admeasuring 40 R, Block No.81/1 admeasuring 96 R, Block No.82/1/C admeasuring 31 R and Block No.82/6/B admeasuring 15 R situated at village Digras, Tq. Palam, District Parbhani are the subject matter of the suit. It is further submitted that, out of the land bearing Block No. 81/1, admeasuring 96 R, portions admeasuring 29 R and 24 R have been sold by Respondent No. 1 by executing sale deed Nos.3337/1997 and 2492 of 1999, respectively. He prayed to set aside the impugned judgment in respect of two suit properties sold earlier to filing of the suit and decree the suit fully as prayed.

6. Learned Advocate for the Respondent submitted that no reliefs seeking a declaration that the sale deeds executed by Respondent No. 1 are not binding upon the Appellant/plaintiff or for cancellation of the said sale deeds was not sought in the suit. There is concurrent findings against the Appellant. No substantial question of law arises for determination. He prayed to dismiss the Appeal.

7. Perused the record and proceedings, particularly the pleadings, the grounds raised in the Appeal, the evidence and the reasons and findings in both the judgments. There is concurrent findings on facts.

8. It is undisputed fact that the land Block No.35/1/B locally known as “Mala” admeasuring 20 R, Block No.72/1/B admeasuring 44 R, Block No.72/6/B admeasuring 40 R, Block No.81/1 admeasuring 96 R, Block No.82/1/C admeasuring 31 R and Block No.82/6/B admeasuring 15 R situated at village Digras, Tq. Palam, District Parbhani are the subject matter of the suit and out of the land bearing Block No. 81/1, admeasuring 96 R, portions admeasuring 29 R and 24 R have been sold by Respondent No. 1 by executing sale deed Nos.3337/1997 and 2492 of 1999, respectively. The sale deeds

are not challenged in the suit. Therefore, the substantial question of law does not arise for decision.

9. In view of the above reasons, no substantial question of law arises for consideration in the present Appeal. However, the impugned judgment and decree require modification to the limited extent by determining the shares of the parties in the suit properties. The Appellant and Respondent No. 1 are entitled to one-half share each in the suit properties, as Respondent No. 2 is died and the Appellant and Respondent No. 1 are her only legal representatives/heirs. The Appeal deserves to be dismissed, with modification in the shares due to subsequent event in the impugned judgment and decree. Hence, the following order:

::ORDER::

a. The Appeal is dismissed. However, the impugned judgment and decree are modified to the extent that the Appellant and Respondent No. 1 are entitled to one-half share each in the suit properties except sold properties.

b. The Executing Court shall take note of the aforesaid clarification while executing the decree.

c. The Appellant is directed to submit this judgment to the

Executing Court and the concerned Revenue Authority for necessary action and for taking note of the aforesaid change in share.

d. The stay granted by this Court by an order dated 01.09.2026 is vacated.

e. Pending civil applications, if any, are disposed of.

[SANJAY A. DESHMUKH, J.]

HRJadhav