

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 27 OF 2026

Shaikh Shiraj Abdul Raheman

....Appellant

VERSUS

Rahimatbee Ajij Pathan And Others

.....Respondent

.....

Advocate for Appellant : Mrs. Narwade Manjushri V.

AGP for Respondents: Mr. P.D. Patil.

Advocate for respondent No.1. : Mr. D.R. Jaybhar.

CORAM : MEHROZ K. PATHAN, J.

DATE : 9th APRIL, 2026.

P.C. :-

1. Leave to add Tahsildar, Ahilyanagar as party respondent No.9 is granted. Necessary amendment to be carried out forthwith.

2. Heard Smt. Narwade, Advocate for some time. It appears that appellant Shaikh Shiraj Abdul Raheman, is the son of Zubeda, who was one of the defendants in the Special Civil Suit No. 1254 of 2012, filed by Rahemat-bee. The suit came to be decreed vide judgment and order dated 16.11.2017 passed in Special Civil Suit No. 1254 of 2012 by the learned 9th Joint Civil Judge (S.D.), Ahmednagar by granting 1/7th share to the plaintiff Rahemat-bee and 2/7th share in the suit property to the defendant Nos. 2 to 4.

3. The defendant Nos. 2 to 4 Jubeda-bee, Syed Shafi and Syed Rafik had filed a regular civil appeal bearing No. 287 of 2019. During the pendency of the civil appeal, Zubeda had died and Shamsunnisa and Shaynaz (real sisters of the appellant) were brought on record as legal heirs of Zubeda, leaving the appellant, who is also the son of Zubeda. The appellant was unaware about any such development of filing of an

appeal by the real sisters of the appellant alongwith Syed Shafi and Syed Rafik i.e. RCA No. 287 of 2019. In this backdrop the appeal came to be dismissed vide judgment and order dated 8.10.2025.

4. The Tahsildar, Ahilyanagar, acting upon the decree dated 16.11.2017 passed by the 9th Jt. Civil Judge (S.D.) in Special Civil Suit No. 1254 of 2012, had initiated the proceedings of partition and prepared a Partition Chart vide order dated 17.3.2026. The partition Chart shows 2/7th share each given to Shamsunnisa and Shaynaz and the other 2/7th share of Zubeda which ought to have been distributed amongst Shaikh Shiraj, Shamsunnisa and Shaynaz was granted to only Shamsunnisa and Shaynaz and the appellant Shaikh Shiraj was left out in the chart of partition prepared by the Tahsildar vide order dated 17.3.2026.

5. The limited grievance of the appellant is that the appellant should also be given share in the 2/7th share allotted in the name of his mother Zubeda vide judgment and decree dated 16.11.2017 passed in Special Civil Suit NO. 1254 of 2012. The appellant was left out to be given any share as the appellant was not shown as legal representative of deceased Zubeda in R.C.A. No. 287 of 2019.

6. Thus, taking into consideration the aforesaid submissions, the following substantial questions of law appears to be involved in the present appeal.

“[A] Whether the respondent proves that she has undivided share in the suit property mentioned in paragraph No.1 of the plaint ?

[B] Whether the respondent is entitled for relief of partition and possession of her share as prayed ?

7. Hence, issue notice to respondents returnable on 23rd April, 2026. The learned APP waives notice for respondent – Tahsildar. The

learned APP is requested to take instructions from the Tahsildar and make submissions on the next date of hearing.

8. Stand over to 23.4.2026.

[MEHROZ K. PATHAN]
JUDGE.

grt/-