IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 438 OF 2019
WITH
CIVIL APPLICATION NO. 864 OF 2019
IN
SECOND APPEAL NO. 438 OF 2019

Dnyanu Maruti Patil (since Decd. Thr. Lrs)
Matabai Dnyanu Patil And Ors …Appellants
V/s.
Droupadi Dhondiram Patil And Ors …Respondents

Mr. Shashank Mangle i/b Mr. Kirankumar, Phakade, for the Appellants

CORAM : SHARMILA U. DESHMUKH, J.
DATED : OCTOBER 16, 2026

P.C.:

1. The Second Appeal is at the instance of original Defendant Nos. 1 and 4 to 7, challenging the concurrent findings of the Trial Court and the appellate Court *qua* Gat No. 232, as according to Defendant Nos. 1 and 4 to 7, the same was the self-acquired property of Defendant No. 1.

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2. Briefly stated, Regular Civil Suit No. 102 of 1998 was instituted by the original Plaintiff seeking partition and separate possession of lands bearing Gat Nos. 232, 238, 622, 623, 35, 1060, 41, 640, 636, 237, and 42, and for a declaration that the transaction executed by Defendant No. 1 in favor of Defendant Nos. 4 to 7 is not binding on the share of the Plaintiff. By judgment dated 21st December 2010, the Trial Court declared that the Plaintiff and Defendant Nos. 1 to 3 have a 1/4th share each in the suit lands block Nos. 232, 237, and 238, and in

so far as the other Gat numbers are concerned, the Trial Court determined the Plaintiff's share as 1/10th and the share of Defendant Nos. 1 to 3 as 3/10th.

3. Aggrieved by the judgment of the Trial Court, an appeal, being Regular Civil Appeal No. 48 of 2011, was instituted by Defendant Nos. 1 and 4 to 7. During the hearing, learned counsel for Defendant Nos. 1 and 4 to 7 restricted the issue only to Gat No. 232, claiming to be the self-acquired property of Defendant No. 1. The Appellate Court re-appreciated the evidence on record and modified the decree only qua the shares of the parties and did not disturb the rest of the Trial Court's judgment.

4. Learned counsel appearing for the Appellants submits that Defendant No. 1 had purchased Gat No. 232 in proceedings initiated under Section 32 of the Maharashtra Tenancy and Agricultural Lands Act and therefore became the deemed purchaser of the said land. He further points out that the Defendants produced the revenue records of Gat No. 232 and the Challan which demonstrated that the demand for the purchase price of Gat No. 232 was issued to Defendant No. 1 and was also paid by Defendant No. 1. He submits that even if the certificate under Section 32M was not issued, Section 32G proceedings culminated in favor of Defendant No. 1 and therefore, Gat No. 232 constituted a self-acquired property which is established through the evidence on record. He submits that substantial question

of law arises as there is perversity in the findings of the Trial Court and the Appellate Court only qua Gat No. 232.

5. I have minutely perused the judgments of the Trial Court and the Appellate Court. Before the Appellate Court, the issue which was framed was limited by the concession given by learned counsel appearing for the Appellants, on instructions, as regards Gat No. 232, which was claimed to be the self-acquired property of Defendant No. 1.

6. The Appellate Court has considered the documentary evidence produced on record as regards the notices issued in proceedings under Section 32G of the Tenancy Act. The Appellate Court further considered the 7/12 extracts of the properties produced by the Plaintiff, which showed that the lands stood in the name of their ancestor Maruti Dhondi Patil as protected tenant of the said land. The Appellate Court therefore came to a specific finding, on re-appreciation of evidence, that the father of the Plaintiff was protected tenant of all these lands. It further noted that after the death of Maruti Dhondi Patil, the names of the Plaintiff and Defendant Nos. 1 to 3 were entered into the revenue records. In light of the documentary evidence adduced by the Plaintiff, the Appellate Court came to a specific finding that the tenanted land Gat No. 232 was the ancestral property wherein their father was a protected tenant and though in the consolidation scheme the name of

Defendant No. 1 appears to have been mutated, the revenue records prior to the consolidation scheme falsifies the theory of the said property being the self-acquired property of Defendant No. 1.

7. The Appellate Court has therefore, rendered a finding of fact about Gat No. 232 being ancestral property. The findings of fact, being based on evidence on record, cannot be interfered in Second Appeal unless perversity is demonstrated. The Appellate Court has rightly appreciated the evidence and there is no perversity demonstrated.

8. Resultantly, the Second Appeal is dismissed.

9. In view of disposal of Second Appeal, All pending Interim Applications/Civil Applications, if any, stand disposed of.

(SHARMILA U. DESHMUKH, J.)