IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.170 OF 2025

Namdeo Genu Padale
since deceased through LRs
Sindubai Namdeo Padale & Ors. ....Appellants
V/S
Rajendra Kashinath Khaire & Ors. ....Respondents

WITH
INTERIM APPLICATION NO.2775 OF 2025
IN
SECOND APPEAL NO.170 OF 2025

Namdeo Genu Padale
since deceased through LRs
Sindubai Namdeo Padale & Ors. ....Applicants
V/S
Rajendra Kashinath Khaire & Ors. ....Respondents

Mr. Ashutosh Kumbhakoni, Senior Advocate i/b Mr. Akshay P. Shinde *for the Appellants/Applicants.*
Mr. Jaydeep Deo *for Respondents.*

CORAM : SANDEEP V. MARNE, J.
DATE : 07 OCTOBER 2026.

P.C.:

1. This Appeal is filed under Section 100 of the Code of Civil Procedure, 1908 (**the Code**) challenging the judgment and decree dated 19 October 2024 passed by the learned District Judge-16, Pune in Regular Civil Appeal No.143 of 2013. The First Appellate Court has set aside the judgment and decree dated 30 November 2012 passed by the learned Civil Judge Junior Division, Pune in Regular Civil Suit No. 475 of 2010.

The Trial Court had dismissed Plaintiffs' suit by judgment and decree dated 30 November 2012. The First Appellate Court has decreed the suit by declaring the shares of the parties in the partition suit.

2. I have heard Mr. Kumbhakoni, the learned Senior Advocate appearing for the Appellants/original Defendants and Mr. Deo, the learned counsel appearing for Respondents/Original Plaintiffs.

3. The suit properties were owned and possessed by Genu, who passed away in the year 1950 leaving behind Krishnabai and three sons namely, Namdev, Dagdu, and Bhagwan and four daughters Gaubai, Deubai, Venubai and Chandrabhaga. After death of Genu, the suit properties were inherited by four sharers viz. Krishnabai, Namdev, Dagdu, and Bhagwan, each having a 1/4th share in the suit properties. Krishnabai died in the year 1985. The three brothers, Namdev, Dagdu and Bhagwan effected a partition in respect of the suit properties by way of a registered Partition Deed in the year 2009. The sisters were not given any share in the properties.

4. Partition suit was filed by the four daughters/their heirs claiming shares in the suit properties. The Trial Court proceeded to hold that the suit property described in paragraph (1-B) is not the joint family property. The Trial Court further held that the partition deed dated 20 April 2009 executed between the three brothers was valid. The Trial Court further held that the suit was not within limitation. Accordingly, the Trial Court rejected the prayer of Plaintiffs' for partition of the suit properties and dismissed the suit.

5. The First Appellate Court has appreciated the position that after the death of Genu, the suit properties were inherited by his wife Krishnabai and three sons Namdev, Dagdu and Bhagwan. Each one of them had 1/4th share in the suit property. Thus the First Appellate Court has not assigned any share to the four sisters in the joint family properties of Genu. Only the wife and three sons inherited Genu’s properties. The First Appellate Court has held that Krishnabai was alive when the provisions of the Hindu Women's Rights to Property Act, 1937 came into force. She passed away in the year 1985. Upon the death of Krishnabai, all the seven legal heirs comprising three sons and four daughters became entitled to inherit Krishnabai's 1/4th share in the suit property. However, the three brothers Namdev, Dagdu, and Bhagwan illegally partitioned the suit property among themselves, thereby depriving their sisters of their shares in respect of the 1/4th share of Krishnabai.

6. In the present case, the daughters did not claim any independent share through their father Genu. They admitted the position that the three brothers, Namdev, Dagdu, and Bhagwan alone are entitled to inherit 1/4th share in the suit properties alongwith mother. All they claim is the division of the 1/4th share of Krishnabai amongst all the seven children. The First Appellate Court has rightly appreciated this position and has held that the three sons and four daughters are entitled to share the 1/4th share of Krishnabai.

7. So far as the issue of limitation is concerned, the exclusion of Plaintiffs occurred on 20 April 2009 when Partition Deed was executed and the suit filed in the year 2010 was perfectly within limitation.

8. So far as suit property described in paragraph (1-B) is concerned, the Trial Court did not record an emphatic finding that the same become exclusive property of Defendant No.2- Bhagwan. On the other hand, the Trial Court itself held that Genu was the purchaser of the tenanted property described in paragraph (1-B) of the plaint. More interestingly, Bhagwan himself never treated the property at paragaph (1-B) of the plaint as his personal property and subjected the same to partition with two brothers in the Partition Deed dated 20 April 2009. I am therefore of the view that the First Appellate Court has rightly held that the suit property described in paragraph (1-B) of the plaint is also a joint family property.

9. It appears that out of the four sisters, Deubai and Venubai passed away during pendency of the suit issueless. Accordingly, the First Appellate Court has determined shares of three brothers and two sisters in 1/4th share of Krishnabai. Accordingly, Namdev, Dagdu and Bhagwan are each allotted 1/4th plus 1/20th share in the suit properties, and the heirs of Gaubai and Chandrabhaga are allotted 1/20th share each in the suit property. The exercise undertaken by the First Appellate Court appeals to this Court. Though the judgment of the First Appellate Court is not prolific, it captures the essence of dispute between the parties. I am therefore not inclined to interfere in the judgment and order of

the First Appellate Court only on the ground that it could have recorded further elaberte reasons in the order. This Court is satisifed with the ultimate outcome of dispute between the parties. No substantial question of law is involved in the Appeal. Second Appeal is accordingly **dismissed**.

10. In view of the disposal of the Second Appeal, Interim Application for stay would not survive and the same is also accordingly **disposed of.**

(SANDEEP V. MARNE, J.)

Signed by: Sudarshan R. Kadam
Designation: PS To Honourable Judge
Date: 09/10/2026 14:50:26