



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

SECOND APPEAL NO.300/2025

APPELLANT : Shri Baliram S/o Tukaram Rode,
Original aged about 65 years, Occ : Cultivator,
Defendant No.1 R/o Bela, Tah. Umrer, Dist – Nagpur.
on R.A.

...VERSUS...

RESPONDENTS: (1) Sau. Mohana W/o Ramdas Dhabale,
Original aged about 60 Years, Occ. Household,
Plaintiff R/o Renkapur, Tah. Samudrapur,
on R.A. Wardha.

Original (2) Sau. Bayna W/o Mahadeo Kapse,
Defendant No.2 aged about 57 Years, Occ. Household
on R.A. R/o Kelzar, Tah. Selu, Dist – Wardha.

Mr. PD. Sharma, Advocate for appellant

CORAM : ROHIT W. JOSHI, J.
DATE : 01/04/2026

ORAL JUDGMENT :

1. The present appeal is filed against the judgment and decree dated 17/06/2017, passed by the learned Ad hoc District Judge – 6, Nagpur in Regular Civil Appeal No.173/2015, whereby the learned first Appellate Court has partly allowed the appeal and modified the judgment and decree dated 27/02/2015, passed by the learned Joint Civil Judge, Junior Division, Umrer in Regular Civil Suit No.14/2010.

2. A civil suit for partition and separate possession with respect to several properties, including land bearing Survey No.653, admeasuring 3.77 HR at village Bela, Tah. Umrer, District Nagpur was filed by the respondent No.1 against the present appellant and respondent No.2. In the said suit, the present appellant had filed written statement raising contention that the land bearing Survey No.653 was allotted to his father's share in the partition in the family, which was arrived at during consolidation proceeding. The present appellant/defendant No.1 stated in the written statement that the said land was ancestral property of the parties and was allotted to the share of his father in the partition as aforesaid and therefore, the plaintiff did not have right to seek decree for partition with respect to the suit property. In the absence of any evidence to prove the said partition, the learned Trial Court decreed the suit for partition and separate possession with respect to the said property. The suit was dismissed with respect to other properties.

3. The appellant/defendant No.1 preferred first appeal being Regular Civil Appeal No.173/2015, challenging the said decree which came to be dismissed vide judgment and decree dated 17/06/2017 passed by the learned Ad hoc District Judge - 6, Nagpur. These concurrent decrees for partition are subject matter of the present Second Appeal.

4. It must be stated that property bearing Survey No.653, although it was recorded in the name of defendant No.1, he had come up with a specific case that the said property was ancestral property. The appellant/defendant No.1 has come up with a case of allotment of the said property to the share of his father in the partition, However, both the learned Courts have found that there is no evidence on record to infer that such partition had taken place.

5. Both the learned Courts have rightly held that the defendant No.1/appellant failed to prove the case of partition with respect to Survey No.653 and have accordingly granted decree for partition and separate possession with respect to the said property.

6. No substantial question of law arises for consideration in the Second Appeal. The Second Appeal is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)