



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

SECOND APPEAL NO.56/2024

Shri Devrao S/o Santoshrao Bhongade

...Versus...

Mrs. Vijayabai W/o Dadaraoji Raut and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. C.N. Funde, Advocate for appellant

CORAM : ROHIT W. JOSHI, J.

DATE : 24/02/2026

1. The present Second Appeal arises out of judgment and decree dated 30/04/2019, passed by the learned 3rd Joint Civil Judge, Junior Division, Nagpur in Regular Civil Suit No.64/2012, which is a suit for partition and separate possession filed by the respondent No.1 in the present Second Appeal.

2. The appellant is the original defendant No.1. The other respondents are defendants in the civil suit. The respondent No.1 is the plaintiff and respondent Nos.2 to 6 are the brothers and sisters. The suit for partition and separate possession was opposed by the defendant No.1 *inter alia* contending that there was a partition in the family, by virtue of a registered deed of partition on 30/09/1975, to which the sisters are also parties and that some gold and cash amount was given to the sisters, in view of their share in the properties of the family.

3. Learned Trial Court has dismissed the suit on the ground that there was no evidence on record in support of the

contention regarding payment of money and certain movables against the share of plaintiff and other daughters in the said partition. Aggrieved by the said decree, the defendant No.1 preferred appeal being Regular Civil Appeal No.326/2019, which came to be dismissed by the learned District Judge – I, Nagpur vide judgment and decree dated 29/04/2023.

4. Learned Advocate for the appellant contends that both the learned Courts have erred in granting decree for partition and separate possession disregarding the earlier partition dated 30/09/1975. The learned Trial Court has granted decree for partition only with respect to the properties which had fallen to share of the father in the partition deed dated 30/09/1975. In the said partition, properties were allotted to the share of father and four sons excluding the daughters. In view of the said partition, the properties became separate properties of the father and the sons. The suit is filed, claiming partition of the properties, which has fallen to the share of the father. These properties are inherited by all his Class-I legal heirs after his demise. It is not in dispute that father has died intestate. The decree for partition, wherein equal share is granted to all the children, therefore cannot be interfered with.

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

(ROHIT W. JOSHI, J.)