



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

**SECOND APPEAL NO. 1 OF 2025**

Kalawati Ramkrishna Shende **Vs.** Ravindra Ramkrishna Shende and ors

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*Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order*

*Court's or Judge's Order*

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Mr. Alok Daga, Advocate for appellant.

**CORAM : ROHIT W. JOSHI, J.**

**DATE : 13.01.2026.**

. The present appeal is filed by the original defendant, against whom concurrent decrees have been passed, granting declaration that she is not legally wedded wife of late Ramkrishna Shende and for declaration that Will dated 03.03.1998, allegedly executed by late Ramkrishna, is illegal and void. The appellant is the original defendant No.1. The respondent Nos.3 and 4 are original defendant Nos.2 and 3. The original defendant No.4 is the mother of respondent Nos.1 and 2/original plaintiffs.. She has expired while the First Appeal was pending. The parties will be referred to as “plaintiffs” and “defendants”.

2. It is not in dispute that late Ramkrishna is father of plaintiffs and defendant No.5. It is not in dispute that defendant No.5 was legally wedded wife of deceased Ramkrishna.

3. The learned Trial Court has decreed the suit and the First Appeal preferred by the present appellant also came to be dismissed.

4. As regards the Will, the same is a registered document. However, out of the two attesting witnesses, although one was attesting witness was alive at the relevant time, he is not examined as a witness. The evidence of son of other attesting witness is restricted only to identification of signature of his father, who has signed the Will as attesting witness.

5. The learned Courts have, therefore, rightly held that the Will is not proved, since the other attesting witness, who was alive, was not examined.

6. The other issue pertains to the status of defendant No.1 as legally wedded wife of deceased Ramkrishna. On this aspect, the case of defendant No.1 was that she was all the while residing with deceased Ramkrishna as his legally wedded wife and that long-standing association between deceased Ramkrishna and her would give rise to presumption that they were living together as legally wedded couple. In this regard, reference needs to be made to the Will dated 03.03.1998, on which defendant No.1 places reliance. In the said Will, Ramkrishna has referred to defendant No.1 as his wife. This implies that according to defendant No.1 her marriage with Ramkrishna was solemnized before 03.03.1998. It is not in dispute that defendant No.1 was

married to one Haridas Pali prior to her alleged marriage with Ramkrishna. The findings recorded by the learned Courts will indicate that deceased Haridas, the first husband of defendant No.1, also died somewhere around in the year 1998. Defendant No.1 could have placed definite evidence on record with respect to the exact date of demise of her first husband, which she has failed to do. Marriage of defendant No.1 with Ramkrishna can be held to be legal only if it was solemnized after the demise of Haridas, the first husband of defendant No.1. In the considered opinion of this Court, the burden to prove the exact date of demise of Haridas was squarely on defendant No.1. It was necessary for defendant No.1 to prove the date of her alleged marriage with deceased Ramkrishna as well. Defendant No.1 has not led any evidence with respect to the exact date of demise of her first husband, as also her date of marriage with deceased Ramkrishna.

7. It also needs to be stated that Ramkrishna got divorce with his first wife, mother of the plaintiffs on 24.06.1999 i.e. after the date of execution of will in which defendant No.1 is referred as wife of Ramkrishna. Therefore, it is obvious that Ramkrishna married the defendant No.1 while his marriage with his first wife was subsisting and such marriage is obviously void.

8. In the considered opinion of this Court, the learned Courts have rightly granted declaration that

defendant No.1 cannot claim to be legally wedded wife of deceased Ramkrishna.

9. In view of the aforesaid, no substantial question of law arises for consideration in the Second Appeal, Second Appeal is therefore, **dismissed**, with no order as to costs.

10. Judgment and decree dated 29.02.2024 passed by the learned District Judge, Wardha in Regular Civil Appeal No.89 of 2016 and judgment and decree dated 19.03.2016 passed by Civil Judge, Senior Division, Wardha in Regular Civil Suit No.242 of 2009, are confirmed.

(ROHIT W. JOSHI, J.)

*Tanmay...*