



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

SECOND APPEAL NO.30/2026

APPELLANTS :
(Ori. Defts)
on RA

1. Smt. Karimabano W/o Mohammad Sharif Sayyad
Aged about 68 occ. Household.
2. Ku. Rafika Bano D/o Mohammad Sharif Sayyad,
Aged about 48 occ. Household.
3. Ku. Shafiya Bano D/o Mohammad Sharif Sayyad
(wrongly mentioned as RCA),
Aged about 42 occ. Household.
4. Ku. Chanda Bano D/o Mohammad Sharif Sayyad,
Aged about 38 occ. Household.
5. Ku. Ganimun Bano D/o Mohammad Sharif Sayyad
(wrongly mentioned as RCA),
Aged about 36 occ. Household.

All above Appellants No.1 to 5 are residing of
Nagpur road Mul Tq, Mul District Chandrapur.

...VERSUS...

RESPONDENTS: 1. Sayyad Mohammad Iqbal S/o Mohammad Sharif
(Ori. Platf. Sayyad, Aged about 53, Occ. Business
on RA) R/o Wadasa, Tah, Wadasa, Dist Gadchiroli.

2. Ku. Parvin Bano D/o Mohammad Sharif Sayyad
Aged 28 R/o Behind Durga Mandir,
beside Gaikwad House, Mul, Chandrapur -441224

Ms P.A. Thakre, Advocate for appellants

CORAM : ROHIT W. JOSHI, J.
DATE : 26/03/2026

ORAL JUDGMENT :

1. The present Second Appeal arises out of judgment and decree dated 20/04/2012, passed by the learned Civil Judge, Junior Division, Mul in Regular Civil Suit No.08/2005 and judgment and decree dated 31/07/2019, passed by the learned District Judge-3, Chandrapur in Regular Civil Appeal No.118/2014.

2. The appellants are original defendant Nos.1 to 5. The respondent No.1 is the original plaintiff and respondent No.2 is defendant No.6. The parties will be hereinafter referred to as 'plaintiff' and 'defendants'. The plaintiff had filed a suit for declaration, partition, and separate possession with respect to the house property, situated in Ward No.8, Mul, Taluka Mul, District Chandrapur.

3. The case of the plaintiff is that he is son of late Mohd. Sharif Mohd. Latif, who expired on 01/01/2004. He claims that the defendant No.1 is second wife of his father and defendant Nos.2 to 6 are daughters of defendant No.1. The suit was opposed disputing that the plaintiff is son of late Mohd. Sharif Mohd. Latif. The learned Trial Court has decreed the suit. The learned Trial Court has placed reliance on the judgment delivered in succession certificate case, which was contested between the plaintiff and defendants with respect to certain debts of deceased Mohd. Sharif Mohd. Latif, wherein it was held that the plaintiff was son of late Mohd. Sharif. Apart from this, the learned Trial Court has also referred to the evidence of real brother of late

Mohd. Sharif to hold that relationship was proved by the plaintiff. The learned Trial Court has also referred to mutation of suit property in the name of plaintiff and defendants after demise of plaintiff's father. Accordingly, the suit for partition and separate possession came to be decreed. The appeal preferred by the defendant Nos.1 to 6 came to be dismissed by the learned first Appellate Court. The learned first Appellate Court has also referred to the evidence on record in order to hold that relationship of plaintiff with late father was duly proved.

4. The learned Advocate for the appellants/original defendant Nos.1 to 5 argues that the learned Courts have failed to appreciate that a judgment delivered in succession certificate proceeding is judgment by Court of limited jurisdiction and as such, the judgment does not operate as *res judicata* in a civil suit. Whereas, there cannot be any dispute with respect to the said legal proposition, in the present case, apart from the judgment in the succession certificate case, there is independent evidence in order to establish relationship of the plaintiff with his late father in the form of testimony of real brother of plaintiff's father.

5. Perusal of the findings recorded by the learned Courts will demonstrate that evidence of plaintiff's uncle is properly appreciated by both the learned Courts. Likewise, it must also be stated that after the demise of plaintiff's father, the suit property was mutated in the name of the plaintiff and defendants, which is a strong indicator to establish that

the plaintiff's status as son of his father was known to the defendants and was also accepted by them.

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

(ROHIT W. JOSHI, J.)

Wadkar