



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

SECOND APPEAL NO. 385 OF 2025

(Shri Ramkrishna Ganpat Deotale vs. Mainabai Sadashiv Deotale through LRs. and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mrs.Smita Deshpande, Advocate for appellant.
Mr. PS.Kadam, Advocate for respondent Nos.1 to 3.
Mr. T.S.Kene, Advocate for respondent Nos.4 and 5.

CORAM : ROHIT W. JOSHI, J.
DATED : MARCH, 10 2026

- 1) The present appeal arises out of judgment and decree dated 18/08/2018 passed by the learned 2nd Joint Civil Judge, Junior Division, Hinganghat in R.C.S.No.114/2012 and judgment and decree dated 22/08/2024, passed by the learned District Judge-2 Hinganghat in R.C.A.No.16/2020.
- 2) Ganpat the predecessor of appellants/original plaintiffs and Sadashiv, the predecessor of respondents/original defendants were real brothers. The suit property was purchased in the name of Ganpat vide registered sale deed dated 11/05/1959. Ganpat and Sadashiv made an application to the Revenue Authorities for partition of the suit property inter se between themselves and accordingly vide mutation entry No.22 recorded on 27/11/1980, 2.88HR land was recorded in the name of Ganpat and 2.43HR land was recorded in the name of Sadashiv. Since then the revenue record is in the name of both the brothers. Ganpat, the predecessor of the plaintiffs has expired on 12/06/1998 and his brother Sadashiv, predecessor of the defendants expired in the year 2006. The record also

indicates that after demise of Sadashiv, names of the defendants were recorded in the revenue record as his legal representatives.

3) In this backdrop, initially plaintiffs challenged the mutation recorded in the name of Sadashiv. The revenue litigation came to be decided in favour of the defendants and against the plaintiffs. The plaintiffs also filed a suit for declaration of ownership and perpetual injunction seeking a decree restraining the defendants from disturbing their possession over the suit property.

4) The defendants opposed the suit contending that although both the brothers had purchased the suit property, since Ganpat was the elder brother sale deed was executed and registered in his name. They also filed counter claim for possession. Strong reliance is placed on mutation entry No.22 recorded in the year 1980 to contend that both brothers had mutually agreed for partition of the land under which 2.43HR land came to the share of Sadashiv, the predecessor of the defendants. The learned trial Court has held that the plaintiffs were in possession of the suit property, however, they were not exclusive owners thereof. The learned trial Court accepted the case of defendants with respect to partition in the year 1980 and accordingly, decreed the counter claim by passing a decree for possession in favour of the defendants to the extent of their 2.43HR land. The appeal preferred by the plaintiffs was also dismissed.

5) Perusal of findings and evidence on record, will indicate that Ramkrishna who was examined as plaintiffs' witness No.1 admitted that ever since the year 1980, the suit property was standing in the name of Sadashiv till his demise. He also admitted that Ganpat did not object to this mutation

throughout his life time. The register of mutation which is duly proved and exhibited shows that both brothers were present before the Revenue Authority and jointly made a statement that the property was purchased in the name of elder brother and that both brothers wanted to partition the same as per the shares mutually decided by them.

6) Having regard to long standing entry in the revenue records coupled with the presence of both the brothers at the time of recording of mutation entry, as is found from the relevant records, the learned trial Court has accepted the case of partition set up by the defendants. The learned trial Court has also duly considered the admission of plaintiff No.1 during the course of his cross-examination relating to mutation as per partition to affirm the case of partition set out by the defendants. As regards the possession it is found that the defendants were residing elsewhere and therefore, were not able to cultivate the land personally, as a consequence of which the same was occupied by the plaintiffs.

7) The learned first appellate Court, upon re-appreciation of evidence has confirmed the said findings and the decree for possession passed in favour of the defendants.

8) Having perused the judgments delivered by both the learned Courts, deposition of parties and the relevant exhibited documents, this Court is of the opinion that the findings recorded by both the learned Courts are pure findings of facts which are recorded upon due appreciation of documentary and oral evidence on record. It needs to be stated that there is a presumption with respect to correctness of long standing entry in the revenue record. The record relating to mutation entry shows presence of both brothers and amicable agreement between

them for partition of the property. The brothers, including predecessor of the plaintiffs stood by the partition arrived at between them throughout their lifetime. The dispute started only after their demise i.e. after a period of around 26 years from the partition. This Court finds no reason to interfere in the well reasoned judgments delivered by both the learned Courts. No substantial question of law arises for consideration in the second appeal, second appeal, is therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)