



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

SECOND APPEAL NO.77 OF 2025

APPELLANT

Ori. R.A.

:-

Pradeep Ganeshrao Pawade (Deshmukh),
aged about 62 years, Occ: Retired, R/o.
Prabha Colony, Mini bye pass road, Opp.
To Amar Colony, Amravati.

..VERSUS..

RESPONDENTS

Ori R.A.

:-

- 1) Vasundhara Nana Pawade (Deshmukh),
aged about 23 years, Occ.: Household
work,
- 2) Ku. Prajakta Nana Pawade (Deshmukh),
aged about 23 years, Occ.: Education,
- 3) Pratik Nana Pawade (Deshmukh) Aged
about 20 years, occ.: Education.
No.1 to 3 R/o. yogayog Mahasul Colony,
Opp. To Mahavir Vidyalaya, Chaprasipura,
Amravati, Tq. & Dist. Amravati.
- 4) Pramod Vasantrao Gulhane
Aged 45 years, Occ.: Business,
R/o Juni Taksal, Amravati.

Mr. M.V. Bute, Advocate for Appellant.
Mr. Rahul Tajne, Advocate for Respondents.

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

DATE : **04/02/2026**

ORAL JUDGMENT :

1. The present appeal is preferred by original plaintiff in Special Civil Suit No.27 of 2015, which came to be dismissed by the learned Civil Judge Senior Division, Amravati, vide judgment and decree dated 22.06.2017. The appeal preferred by the plaintiff, being Regular Civil Appeal No.124 of 2017, is also dismissed by the learned Principal District Judge, Amravati, vide judgment and decree dated 26.09.2024.

2. It is the case of the plaintiff that the defendant Nos.1 to 3 have sold suit property, which is a Joint Hindu Family property of the plaintiff and defendant Nos.1 to 3, to the defendant No.4, although they were not absolute owners of the suit property. Perusal of the plaint averments will indicate that the plaintiff has stated that the defendant Nos.1 to 3 rely on an unregistered partition deed dated 31.08.2004, which is scribed on a stamp paper of Rs.100/-.

3. Notice was issued in the present appeal vide order dated 23.09.2025 on the following substantial question of law:-

“Whether the respondent Nos.1 to 3 can claim ownership over the suit property on the basis of an unregistered deed of partition and consequently, did they have absolute right and title over the suit property to sell the same to the respondent No.4?”

4. It is the case of the plaintiff that since the alleged deed of partition is an unregistered document, the defendant Nos.1 to 3

cannot claim any title over the suit property on the basis of said partition deed and consequently, they did not have absolute title to sell the suit property to the defendant No.4.

5. The plaintiff has not challenged the partition deed. While recording reasons with respect to the said partition deed, the learned Courts have found that a major chunk of the family property had fallen in the share of the plaintiff under the same document of partition. As regards the objection with respect to registration of the document, the learned Courts have considered Sections 17 and 49 of the Registration Act, 1908 to hold that the partitioned deed could be read in evidence for collateral purpose of determining the nature of possession of the respective parties.

6. In view of the fact that the plaintiff himself is a beneficiary of the partition deed, the Courts have dismissed the suit holding that he could not challenge the sale deed executed by the defendant Nos.1 to 3 with respect to the suit property, since the said property had fallen to the share of the defendant Nos.1 to 3 under the same partition deed.

7. It is well settled that a beneficiary of a document is not entitled to question the veracity of the document. Although the partition deed is not registered and is also not duly stamped, the

plaintiff himself has derived benefit of the said document. The plaintiff is therefore estopped from questioning the said document as also title of defendant Nos.1 to 3 derived under the said document. Reliance in support of this proposition can be placed on the judgment of the Hon'ble Supreme Court in the case of *Kale and others ..vs.. Deputy Director of Consolidation and others*¹.

8. In view of the aforesaid, this Court finds that the findings recorded and conclusions drawn by both the learned Courts are just and proper and do not call for any interference. The substantial question of law is thus answered in favour of the respondents/original defendants and against the appellant/original plaintiff. Second Appeal is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate

¹ AIR 1976 SC 807