



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

SECOND APPEAL NO. 281 OF 2025

(Govinda Madhav Kale and others vs. Hiraji s/o Madhav Kale)

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

Court's or Judge's order

Ms. Kirti Satpute, Advocate for appellants.
Mr. S.V.Sirpurkar, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.
JANUARY 13, 2026

- 1) This appeal is preferred by the original plaintiffs in Regular Civil Suit No.89/2009 which is a suit for partition and separate possession filed by them against their brother, who is respondent in the present appeal. The said suit was decreed by the learned trial Court vide judgment and decree dated 22/06/2012 interalia granting 1/5th share each to the plaintiffs No.1 to 4 and the sole defendant.
- 2) Aggrieved by the said decree of partition, the present respondent/original defendant preferred first appeal being Regular Civil Appeal No.215/2012. In the said appeal the contention was raised that the suit property bearing Survey No.168/1, 168/2 and 396 are self-acquired properties of the defendant. The learned first appellate Court has allowed the appeal by excluding the aforesaid three properties from the decree for partition.
- 3) It is seen that the father of the parties had executed registered gift deeds with respect of land bearing Survey No.168/1 and 168/2 in favour of the defendant No.1 and his wife vide registered gift deeds dated 17/07/1982 and

16/06/1982 respectively and these gift deeds were challenged by the plaintiff No.1 by filing a suit being Regular Civil Suit No.239/1982. It is not in dispute that the said suit was dismissed on merits. Apart from this, it is also obvious that plaintiffs had knowledge about the said gift deeds in the year 1982 inasmuch as suit challenging the said gift deeds was filed in the year 1982. The findings by the learned first appellate Court with respect to aforesaid two lands being separate properties of the defendant and his wife, therefore, do not warrant any interference.

4) As regards the third property, i.e. Survey No.396, it is clear that the defendant had separate source of income since the year 1982 when the aforesaid lands admeasuring around 10 hectares were transferred in favour of the defendant and his wife by the aforesaid gift deeds. It is not in dispute that the sale deed of Survey No.396 is in the name of defendant No.1. In view of the aforesaid, the findings by the learned first appellate Court that Survey No.396 is self-acquired property of defendant, does not warrant any interference.

5) In the light of the findings above, the Second Appeal is dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)