



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

SECOND APPEAL NO. 222 OF 2025
WITH
CIVIL APPLICATION NO. 745 OF 2025

IN
SECOND APPEAL NO. 222 OF 2025
SANGHRATNA S/O SURYABHAN WAGHMARE
Vs.
CHANDRABHAN S/O SITARAM WAGHMARE
(SINCE DECEASED) THR. LRS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Devidas C. Chahande, Advocate for the Appellant.

CORAM : ROHIT W. JOSHI, J.
DATE : 17th JANUARY, 2026.

1. The present appeal is filed against concurrent decrees for partition and separate possession passed in favour of the present respondent/original plaintiff against the present appellant who is the original defendant No.1.
2. The plaintiff is sister of defendant no.1. She has filed a suit for partition and separate possession against the defendant in which the decree for partition and separate possession came to be passed. The first appeal preferred by the present appellant was also dismissed.
3. Learned advocate for the appellant has raised two

contentions, first that the father expired on 18.11.1984 and the mother expired on 11.05.1992 and therefore, the suit for partition is filed in the year 2016 is barred by imitation and second that all the properties were not included in the suit and therefore, the suit was not maintainable in view of the legal principles that suit for partial partition is not maintainable.

4. As regard the first contention, it is well settled that limitation for filing the suit for partition and separate possession does not commence on demise of the person through whom the property is inherited. Cause of action in a suit for partition commences when a demand for share is made and it is denied. The suit is filed in the year 2016. Perusal of the judgment demonstrates that according to the defendant the plaintiff had made demand for partition only a few days before filing of the suit and such, the suit was barred by limitation. It is therefore clear that the suit filed within the prescribed period of limitation from the refusal of demand.

5. As regards the second contention, it is not in dispute that objection with respect to maintainability of suit on the ground that all properties are not included was not raised in the written statement. No issue was framed in this regard. During the course of cross-examination of the plaintiff, questions were

put to her with respect to availability of certain movables in the nature of ornaments and money in the bank account. It is not the case of the defendant that the alleged ornaments or money in account were lying either in custody of the plaintiff or under her control. Resultantly, the second contention must also fail.

6. The Second Appeal does not raise any substantial question of law and is therefore, dismissed.

(ROHIT W. JOSHI, J.)

MJ Jadhav