



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

CIVIL APPLICATION (O) NO. 119 OF 2026
IN
M.C.A. (STAMP) NO.24255 OF 2025 (REVIEW)
IN
SECOND APPEAL NO. 96 OF 2025 (D)

(ASHOK PUNDLIK MENDHULE (DECEASED) THR. LRS. AND ANOTHER

VS

MADHUKAR S/O SAMPATRAO SAWARKAR (DEAD) THR. 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

Mr. R. D. Damle, Advocate for applicants.

CORAM : ROHIT W. JOSHI, J.
FEBRUARY 20, 2026

- 1) For the reasons mentioned in the application, application for condonation of delay is allowed.

M.C.A. (STAMP) NO.24255 OF 2025 (REVIEW)

- 2) The present application is filed seeking review of judgment dated 29/04/2025, passed in Second Appeal No.96/2025. The contention is that the plaintiffs who are daughters of Anandibai could not have filed a suit for partition and separate possession with respect to properties which are ancestral properties of their maternal grandfather Vithoba, since their mother Anandi Bai died in the year 1999 i.e. prior to commencement of Hindu Succession (Amendment) Act, 2005.
- 3) It is undisputed that the maternal grandfather Vithoba expired in the year 1976; he was survived by female class-I legal

heir viz. mother of plaintiffs (Anandibai); and Anandibai died in the year 1999.

- 4) In view of proviso to Section 6 of the Hindu Succession Act, 1956, as it stood prior to the amendment, a share of deceased coparcener in coparcenary property, who expired leaving behind class-I female legal heir, was required to be partitioned by way of notional partition and his share on the date of his demise devolve on his class-I legal heir by way of succession and not by survivorship. It is also well settled that succession opens immediately upon demise of person. Succession in the present case opened in the year 1976 when Vithoba expired. His property was inherited by his class-I legal heir including Anandibai, mother of plaintiffs. After demise of their mother, the share of their mother was inherited by the plaintiffs. In that view of the matter, the plaintiffs were entitled to file a suit for partition and separate possession, even though the suit property is considered to be ancestral property.
- 5) The application for review, is therefore, rejected.

(ROHIT W. JOSHI, J.)