



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

SECOND APPEAL NO.44/2026

Smt. Mangala Maroti Giradkar and others
...Versus...
Nirmalabai Shankar Butle

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

Court's or Judge's orders

Mr. A.A. Dhawas, Advocate for appellants

CORAM : ROHIT W. JOSHI, J.
DATE : 11/03/2026

1. The present Second Appeal is filed, challenging the judgment and decree dated 17/11/2025, passed by the learned Principal District Judge, Chandrapur, dismissing Regular Civil Appeal No.109/2015 and thereby confirming the judgment and decree dated 05/10/2013, passed by the learned Civil Judge, Junior Division, Rajura in Regular Civil Suit No.141/2012.

2. The suit for partition and separate possession filed by the respondent/plaintiff came to be decreed by the learned Trial Court, holding that the plaintiff and defendant have half share, each in the suit properties and granting a decree for partition and separate possession accordingly. The plaintiff is sister of defendant. Relation between the parties is not in dispute. The defendant engaged an Advocate but did not file written statement and did not contest the suit on merits. The case of the appellants is that their father Maroti, (original defendant) was a mentally disabled person and as such, he

could not be arrayed as defendant without appointment of guardian. It is contended that since the defendant was mentally disabled person, there was no question of his engaging any Advocate. It is further stated that a complaint is also lodged against the Advocate, who has entered appearance on behalf of defendant in the civil suit. However, on a specific query made to the learned Advocate for the appellants with respect to documentary evidence produced on record before the learned first Appellate Court with respect to the contention that the original defendant was mentally disabled, in fairness the learned Advocate states that there is no documentary evidence to establish the said fact. Although personal allegations are levelled against the Advocate, who filed Vakalatnama on behalf of the defendant, he was not joined as a party in the appeal and is also not a party in the present Second Appeal. It is obvious that allegations against the concerned Advocate cannot even be looked into since he is not arrayed as a party.

3. In view of the aforesaid, decree passed by the learned Courts cannot be faulted with. No substantial question of law arises for consideration in the present Second Appeal. Second Appeal is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)