

Spl. C.S. No. 36/2008
Suraji Vs. State +7

ORDER BELOW EXH.01
(Passed on 11th January 2019)

Originally, the suit has been filed for partition and other reliefs. The plaintiff is claiming to be adopted son of defendant No.4- Potibai. It has been the case of the plaintiff that he and defendant No.4- deceased Potibai had undivided half share in all the suit properties. During pendency of the suit Potibai died. It is not contention of the plaintiff if the Potibai had other legal heirs. For this reason, the cause of action for the relief of partition does not survive after the death of Potibai. Moreover, defendant Nos. 7 and 8 have come with the contention that Potibai died executing will-deed in respect of the suit properties, left after execution of sale-deed dated 25-09-2008, and therefore, they have become absolute owner of the suit properties. Consequently, defendant Nos. 7 and 8 have filed their counter claim, claiming title over the suit properties. In view of such subsequent development, issues framed below Exh.19 will have to be recast, with some additional issues in order to address the controversy in a better way. Therefore, today, I heard the learned counsel for the plaintiff Shri K. G. Mutyalwar and for defendant Nos. 7 and 8 Shri A. D. Deshpande on aforesaid aspect. In the result, I proceed to recast the issues and to frame some additional issues below Exh.19.

The present case is pending since 2008, the Hon'ble High Court time to time directed disposal of such old cases in a time bound manner. Therefore, the learned counsel for the plaintiff and the defendants are directed to keep the plaintiff present on

next date for remaining cross-examination and the learned counsel for the defendants to conduct such cross-examination without fail.

Date : 11-01-2019

(Y. K. Rahangdale)
Civil Judge (Sr. Dn.),
Kelapur.