



Swapnil

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 390 OF 2015**

Karbhari Kushaba Walve (d/h). ... Appellants

Vs.

Hanumanta Kushaba Walve (d/h). ... Respondents

Mr. S. B. Shetye a/w. Ms. Vrushali Shivgan, Mr. Akshay  
Pansare for the appellants.

Mr. Ajinkya J. Jaibhave for respondent nos. 1A to 1E.

Ms. Devashri G. Karandikar i/b. Mr. Saurabh M. Railkar for  
respondent nos. 2A to 2D and 3A to 3F.

**CORAM : GAURI GODSE, J.**

**DATE : 4<sup>th</sup> MAY 2026**

**ORDER :**

1. The second appeal is admitted on the following  
substantial questions of law :-

I. Whether the impugned decree granting 4/9<sup>th</sup> share  
each to respondent no. 1 and defendant no.1 in Gat No. 25  
and House No. 470 would be sustainable without considering  
the share of Shakuntala (Plaintiff No.3) ?

II. Considering the relationship between the parties  
whether the plaintiffs and defendant no.1 were entitled to

equal shares in respect of the properties which were not disposed of by defendant no.1 for legal necessity ?

III. Without considering the share of Shakuntala (plaintiff no.3) whether to the properties bearing land Gat No. 25 and House no. 470 can be partitioned equally only between Hanumant (plaintiff no.1) and Karbhari (defendant no.1) ?

IV. Whether the joint family properties even if not described in the plaint can be made subject matter of partition, if there is no dispute with the properties belong to the joint family ?

V. Whether on the ground of legal necessity, the plaintiffs are rightly denied the share in respect of the properties disposed of by defendant no.1 as Karta ?

VI. Whether the findings recorded by both the courts on the nature of the suit property would need interference as admittedly the properties disposed of by defendant no.1 was on the ground that it was disposed of for legal necessity ?

2. Notice is waived on behalf of respondent nos. 1A to 1E, 2A to 2D and 3A to 3F.

3. In addition to court notice, learned Advocate for the appellants shall serve the remaining respondent by private notice and file service affidavit before the next date.
4. Learned advocate for the appellants shall ensure that copies are supplied and the court notice is issued by taking humdast.
5. Call for records and proceedings.
6. Printing is dispensed with.
7. Learned advocate for the appellants shall file a private paper-book within a period of one year from today.
8. Considering the relationship between the parties and the nature of the dispute, it is advisable that the parties make an attempt to amicably resolve the dispute.
9. In the event parties are able to resolve the dispute amicably or they intend to resolve the dispute amicably through mediation, liberty to apply.

**[GAURI GODSE, J.]**