

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO. 858 OF 2019

Ramdas Kedu Aher & Ors.	..Appellants
V/s.	
Motiram Kedu Aher & Ors.	.. Respondents

Mr. M.M. Sathaye for the Appellants.

Mr. Jayendra Khairnar for the Respondent Nos 1, 2A to 2G.

CORAM : C.V. BHADANG, J.

DATE : 01st FEBRUARY, 2021

PC.

1. On hearing the learned counsel for the parties, Second Appeal is admitted on the following substantial questions of law:

(I) Whether the courts below were justified in holding that property Gat No.26 of Village Matane, Taluka Deola District Nashik was a self acquired property of Respondent No.1 (Defendant No.1)?

(II) Whether the finding so recorded is perverse being against the weight of the evidence on record and when admittedly, there were ancestral properties belonging to the family and in view of the specific admission by

Defendant No.1 that he was in receipt of income from the ancestral property exclusively?

(III) Whether the courts below were justifying in placing the burden on the Appellants to prove that the property Gat No. 26 was the joint family property particularly when the availability of income from the ancestral property as described in paragraphs 1 and 3 of the plaint was not disputed?

2. The learned counsel for the Respondent Nos. 1 and 2A to 2G waives service.
3. Appellants to file private paper book, within six months.
4. Hearing is expedited.

C.V. BHADANG, J.