

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.598 OF 2016
WITH
CIVIL APPLICATION NO.1197 OF 2016

Smt. Shakuntala @ Shakubai Daghadu Fengase ..Appellant.
V/s.
Sau. Sarubai Bhiku Tapkir & Ors. ..Respondents.

Mr.A.P.Purohit for the appellant.

Mr.S.Salunkhe for respondent No.5.

CORAM : A.M.DHAVALA, J.

DATE : SEPTEMBER 26, 2018

P.C.:-

Heard counsel for the appellant and respondent No.5.

2. When there was no suit for partition of properties and no counter-claim to that effect, the judgment of the Appellate Court granting partition of all the suit properties appears to be against the provisions of law. It is also argued that defendant No.1 had filed an appeal, but he died during the pendency of the appeal and no cognizance thereof has been taken. Considering these facts, issue notice to unserved respondents, except

respondent No.5, with intimation that the matter will be taken up for final hearing at the admission stage, returnable on November 19, 2018.

2. Respondent No.1 is reported to be dead. The appellant may take appropriate steps.

(A.M.DHAVALA, J.)