

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 359 OF 2023

Meena Vitthal Rukari

..Appellant

Versus

Shantabai Dattatray Rukari & Ors

...Respondents

WITH

INTERIM APPLICATION NO. 6676 OF 2024

IN

SECOND APPEAL NO. 359 OF 2023

WITH

INTERIM APPLICATION NO. 13306 OF 2023

IN

SECOND APPEAL NO. 359 OF 2023

WITH

INTERIM APPLICATION NO. 8691 OF 2025

IN

SECOND APPEAL NO. 359 OF 2023

WITH

INTERIM APPLICATION NO. 13305 OF 2023

IN

SECOND APPEAL NO. 359 OF 2023

ARUN
RAMCHANDRA
SANKPAL

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ARUN RAMCHANDRA
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Date: 2026.01.14
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Mr. Kunal Mehta, i/b Abhishek Nandimath, for the Appellant.

Mr. Mahesh Barve, for Respondent No.2.

Ms Madhavi Ayyapan, with Yogesh Morey, i/b Talekar & Associates,
for the Respondent Nos. 3, 4 and 6.

CORAM: N. J. JAMADAR, J.

DATE : 14th JANUARY 2026

P.C.:

- 1.** Heard the learned Counsel for the parties.
- 2.** Following substantial questions of law arise for consideration.

Q1 Whether the Appellate Court misconstrued the registered instruments to arrive at a wrong conclusion regarding the character of suit properties in respect of which the claim of the Appellant for partition was disallowed?

Q2 Whether the Appellate Court was justified in returning a finding that the Plaintiff was not entitled to a share in the properties, in respect of which the claim of the Appellant for partition was disallowed, on the premise that those properties were self-acquired properties of late Dattatray when in the Plaint in SCS No. 348 of 2004, Respondent No.1 had asserted that few of those properties were ancestral properties, which constituted judicial admission and thus stood on a higher pedestal?

Q3 Whether the Appellate Court committed an error in not determining the bar of res judicata in view of the judgment in SCS No. 348 of 2004, wherein the Civil Court had returned categorical findings that the suit properties therein were the ancestral properties of Rukari family?

Q4 Whether the Appellate Court incorrectly applied the principles which govern the adduction of additional evidence to the assertion based on the principle of res judicata, in view of the judgment in SCS No. 348 of 2004, and, thereby committed an error in discarding the ground of bar of res judicata, and that resulted in miscarriage of justice?

3. Admit.
4. Issue notice to the Respondent returnable on 25th March 2026.
5. Mr. Mahesh Barve, the learned Counsel, waives service of notice for Respondent No.2.
6. Ms. Madhavi Ayyapan, the learned Counsel, waives service of notice for Respondent Nos. 3, 4 and 6.
7. Call R & P.
8. Printing dispensed with.
9. The Appellant shall file private paper-book within a period of 10 weeks.

[N. J. JAMADAR, J.]