

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

SECOND APPEAL NO. 409 OF 2014

Swapnil

Hareshwar Thakrya Patil and Ors. ... Appellants

Vs.

Narayan Jiwan Patil and Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 1192 OF 2009**

Ms. Sakshi Inamdar i/b. Dr. Uday Warunjikar for the appellants.

Mr. Nitin Gangal a/w. Ms. Prapti Karkera for respondent nos. 1a to 1c.

CORAM : GAURI GODSE, J.

DATE : 29th APRIL 2026

ORDER :

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

I. Whether based on the reconveyance executed in the name of the three sons of the original owner, Jeevan patil after the property was redeemed from the mortgage, defendant nos. 1 to 4 who claim through the 4th son of Jeevan Patil can be excluded, in the absence of any partition

and separate possession of the suit property ?

II. When there is no dispute that the suit property originally belonged to Jeevan Patil who had mortgaged the property on 4th February 1936, whether on the ground of reconveyance in the name of only three sons, they would be entitled to claim exclusive ownership over the suit property or whether they would be entitled to claim share towards the payment of mortgage money from the 4th son, Thakrya or his heirs, defendant nos. 1 to 4 ?

III. In the absence of any valid document of title of exclusive ownership of the plaintiffs or in the absence of any finding regarding valid partition and separate possession, whether the plaintiffs can claim injunction against the defendants, who are the heirs and legal representatives of the original owner and therefore have a share in the suit property ?

2. Notice is waived on behalf of respondent nos. 1a to 1c.

3. In addition to the court notice, learned Advocate for the appellants shall serve the remaining respondents 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.

[GAURI GODSE, J.]