



*Swapnil*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 562 OF 2016**

Ganesh Neelkanth Pawar and Ors. ... Appellants

Vs.

Chandrashekhhar Baburao Pawar  
and Ors. ... Respondents

**WITH  
SECOND APPEAL NO. 604 OF 2017**

Sadashivrao Ramchandra Patil  
and Ors. ... Appellants

Vs.

Chandrashekhhar Baburao Pawar  
and Ors. ... Respondents

Mr. Anil V. Anturkar, Senior Advocate a/w. Mr. Prathmesh  
Bhargude for the appellants in SA/562/2016.

Mr. Avinash B. Avhad for the appellants in SA/604/2017.

Mr. Jaydeep Deo for respondent nos. 1A to 1C.

**CORAM : GAURI GODSE, J.**

**DATE : 22<sup>nd</sup> APRIL 2026**

**ORDER :**

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

I. Whether the the first appellate court in reversing the

trial court's decree has erred in not recording any the findings in respect of the suit property described in the plaint paragraph 1A and the effect of the memorandum of partition relied upon by defendant no.1 on the property described in plaint paragraph 1A ?

II. When there is no dispute that the suit properties are the original joint family properties, in the absence of partition by metes and bounds, whether the plaintiff and defendant nos. 2 and 3 can be refused equal share in the suit properties ?

III. Whether the findings recorded by the first appellate court on accepting the partition between the parties based on secondary evidence would be sustainable without there being compliance and satisfaction of the law of evidence for leading the secondary evidence ?

IV. Whether an unregistered memorandum of partition can be accepted as a valid document of partition and separate possession by metes and bounds without giving any share to the daughter of Baburao ?

V. Whether in view of the Hindu Succession (Amendment)

Act, 2005 share to the daughter of Baburao can be denied based on a unregistered memorandum of partition ?

VI. Whether the findings recorded by the first appellate court accepting the unregistered document of memorandum of partition would be sustainable in the absence of the findings on actual division of the property required for a valid partition by metes and bounds ?

VII. Whether, in the light of the law laid down by the Hon'ble Supreme Court in ***Santosh Hazari v. Purushottam Tiwari***<sup>1</sup>, the first appellate court being the last fact finding court, while reversing the findings of the trial court, has discharged its statutory duty of assigning its own reasons for arriving at a different finding ?

2. Notice is waived on behalf of respondent nos. 1A to 1C.

3. In addition to 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

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<sup>1</sup> (2001) 3 SCC 179.

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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.]**