

Ajay

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

**SECOND APPEAL NO. 315 OF 2017**

Prabhavati Prabhakar Ghase and Ors. .. Appellants  
**Versus**  
Sunanda Laxman Patila and Ors. .. Respondents

**WITH  
INTERIM APPLICATION NO. 16303 OF 2023**

**WITH  
CIVIL APPLICATION NO. 661 OF 2017  
IN  
SECOND APPEAL NO. 315 OF 2017**

**WITH  
SECOND APPEAL NO. 316 OF 2017**

Prabhakar Shankar Ghase .. Appellant  
**Versus**  
Sunanda Laxman Patila and Ors. .. Respondents

**WITH  
CIVIL APPLICATION NO. 662 OF 2017  
IN  
SECOND APPEAL NO. 316 OF 2017**

- Mr. Kailas Dewal a/w. Mr. Yash Dewal, Advocates for Appellants.
- Mr. Nadeem Shama a/w. Ms. Mona Malvade, Advocates i/by Mona Malvade for Respondent No.1.

.....  
**CORAM : MILIND N. JADHAV, J.**

**DATE : MARCH 12, 2026.**

**P.C.:**

**1.** I have heard Mr. Dewal, learned Advocate for Appellants and Mr. Shama, learned Advocate for Respondent No.1.

**2.** Parties before me are siblings. Appellants in the Second Appeal before me is the brother / male descendant who is in

possession of the suit property. Respondent in the Second Appeal is one of the sister / sibling of Appellants who admittedly has 1/5th share in the suit property.

3. Mr. Dewal on behalf of Appellants informs the Court that the other two sibling sisters and the mother have relinquished their respective share in favour of the Appellant No.1 – brother. Though there is a further transfer of the suit property by the Appellant to his wife and son that need not be gone into at this stage because the issue before the Court is with respect to partition and share of the siblings.

4. Case of Appellant is that since he is in long standing possession, he is entitled to the entire property. It is not in dispute that the suit property is ancestral property. If that be the case, under the provisions of the Hindu Succession Act, the sibling sister represented by Mr. Shama would undoubtedly be entitled to her 1/5th share. Mr. Dewal therefore in his usual fairness, at the outset informs the Court that Appellant is ready and willing to deliver and deposit the market value of the 1/5th share belonging to the Respondent – sister in order to reconcile the *lis* between the parties.

5. Mr. Shama persuades the Court allow him to take appropriate instructions in this regard.

6. Mr. Dewal will inform the extent and details of the market value of the 1/5th share which he is desirous to deliver in terms of

money to Mr. Shama. Accordingly Respondents shall give appropriate instructions and apprise the Court through their Advocate on the next adjourned date, failing which present Second Appeals shall be heard by the Court.

7. Needless to state that even though this Court has opined that Respondent is undoubtedly entitled to her 1/5th share and without prejudice to the rights and contentions of the Appellant before me, Appellant has also graciously agreed that he is ready and willing to deliver the market value of 1/5th share to the Respondent, it does not *ipso facto* mean that the case of Respondent has been accepted by the Court.

8. The proceedings before the Court shall be undoubtedly decided on merits with reference to their respective legal right as also on the basis of equity in accordance with law which shall be noted by the parties.

9. Stand over to **2<sup>nd</sup> April 2026 at 03:00 p.m.**

10. In the meanwhile, ad-interim / interim relief, if any, granted earlier, is directed to be continued.

[ MILIND N. JADHAV, J. ]