

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 757 OF 2017  
WITH  
CIVIL APPLICATION NO. 1259 OF 2010  
IN  
SECOND APPEAL NO. 757 OF 2017  
WITH  
CIVIL APPLICATION NO. 897 OF 2010  
IN  
SECOND APPEAL NO. 757 OF 2017**

Mr. Shri Balu Baban Bhadale and Anr ... Appellants/Applicants

vs.

Dattoba Shankar Bhadale deceased through  
Lrs Smt Chabubai Dattoba Bhadale and Ors ... Respondents

Mr. Girish Godbole, Senior Advocate a/w. Ashok B. Tajane, for the  
Applicants/Appellants.

Mr. Tanmay Vispute h/f. Onkar Warange, for Respondent nos. 1A,  
1B, 2, 4 and 5.

**CORAM : GAURI GODSE, J.**

**DATED : 13<sup>th</sup> JUNE 2024**

**P.C. :-**

1. Heard. Second Appeal is admitted on the following substantial  
question of law:

I) Whether the decree of partition could have been passed for the properties claimed by the appellants to be exclusive properties of the branch of Mahipati, without there being specific findings on the status of those properties being joint family properties?

II) Whether the findings recorded that the properties standing in the name of Baban were liable for partition as joint family properties, by relying upon the definition of 'person' under section 2(11) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 is sustainable in law?

2. Mr. Vispute waives notice on behalf of respondent nos. 1A, 1B, 2, 4 and 5. In addition to Court notice, appellants to serve the remaining respondents, by private notice and file affidavit of service.

3. Call for records and proceedings.

4. Printing is dispensed with.

5. Appellants to file private paper-book within six months from today.

6. Since, the Second Appeal is filed in 2006, office is directed to list the Second Appeal for directions after records and proceedings

are received.

**CIVIL APPLICATION NO. 1259 OF 2010.**

7. Rule on interim relief in terms of prayer clause (a) is made returnable after ten weeks.

8. Mr. Vispute waives notice on behalf of respondent nos. 1A, 1B, 2, 4 and 5. In addition to Court notice, appellants to serve the remaining respondents, by private notice and file affidavit of service before the next date.

9. Ad-interim relief already granted by order dated 29<sup>th</sup> June 2010 to continue till next date.

**(GAURI GODSE, J.)**