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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 259 OF 2018  
WITH  
CIVIL APPLICATION NO. 115 OF 2018  
IN  
SECOND APPEAL NO. 259 OF 2018  
WITH  
SECOND APPEAL NO. 199 OF 2018  
WITH  
CIVIL APPLICATION NO. 116 OF 2018  
IN  
SECOND APPEAL NO. 199 OF 2018**

Shri Ashok Maruti Nagare(Deceased Thru Lrs)  
1A. Smt Jijabai Ashok Nagare ... Appellants/Applicants

vs.

Shri Nandlalmaruti Nagare and Ors ... Respondents

Mr. Vikram Narendra Walawalkar i/b. Mr. Sabrad for Appellants.  
Mr. Avinash H. Fatangare a/w. Ms. Archana S. Shelar, for  
Respondent Nos. 2 and 6 to 9.

**CORAM : GAURI GODSE, J.**

**DATED : 15<sup>th</sup> OCTOBER 2024**

**ORDER:**

**SECOND APPEAL NO. 259 OF 2018 AND SECOND APPEAL NO.  
199 OF 2018**

1. Heard learned counsels for the parties. Second appeal is  
admitted on the following substantial questions of law:

I) As the partition deed between the parties was accepted

and admitted by the parties, whether the First Appellate Court erred in reversing the trial court's decree without recording specific findings of facts on the contents of the partition deed?

II) Once the partition between the parties is admitted, whether the suit for declaration and injunction, based on the partition deed could have been dismissed in the absence of any specific findings of facts recorded on the actual allotment of the shares of the parties pursuant to the partition deed?

III) Whether the findings recorded by the First Appellate Court reversing the trial court's findings, would amount to incorrect appreciation of the facts and evidence on record?

2. Learned advocate for respondent nos. 2 and 6 to 9, waives notice.
3. In addition to Court notice, learned advocate for appellants to serve the respondents, by private notice and file affidavit of service.
4. Call for records and proceedings.
5. Printing is dispensed with.
6. Learned advocate for the appellants shall file private paper-book within a period of one year from today.

**CIVIL APPLICATION NO. 115 OF 2018 IN SECOND APPEAL NO. 259 OF 2018 AND CIVIL APPLICATION NO. 116 OF 2018 IN SECOND APPEAL NO. 199 OF 2018**

7. Rule on interim relief in terms of prayer clause (b) is made returnable on 4<sup>th</sup> February 2025.

8. Learned advocate for respondent nos. 2 and 6 to 9, waives notice.

9. In addition to Court notice, learned advocate for the applicants to serve the respondents, by private notice and file affidavit of service before the next date.

10. Till next date, ad-interim relief already granted to continue.

11. Since, earlier also an attempt was made to explore the possibility of an amicable settlement, it is clarified that though the second appeals are admitted, parties are at liberty to explore the possibility of an amicable settlement.

**(GAURI GODSE, J.)**