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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 930 OF 2016  
WITH  
INTERIM APPLICATION NO. 30633 OF 2022  
CIVIL APPLICATION NO. 1923 OF 2016  
INTERIM APPLICATION NO. 30631 OF 2022**

Shri Nivrutti Karbhari Pagare ... Appellants  
and Others

Vs.

Shri Vitthal Karbhari Pagare ... Respondents  
(Deceased through LRS)  
Smt. Mainabai Vitthal Pagare  
and Others

Mr. Dnyaneshwar Deshmukh for the Appellants/Applicants.  
Mr. Sandesh S. Shinde h/f. Mr. Rameshwar N Gite for  
Respondent No. 1.

**CORAM : GAURI GODSE, J.**

**DATE : 6<sup>th</sup> MAY 2026**

**ORDER :**

1. Learned counsel for the appellants submits that the question of law is already framed on 4<sup>th</sup> June 2019. The second appeal is admitted on the question of law framed on 4<sup>th</sup> June 2019. Issue of abatement, if any, in view of the death

of the parties is kept open to be decided in the independent application. The question of law reads as under :

(a) When the plaintiff has sold the property allotted to him under the Deed, Exh. 115, and thus has dealt with the properties as independent owner and never as joint as owner, whether the Deed at Exh. 115 amount to a partition Deed which is valid and effective and has vested in the plaintiff absolute and unalterable rights in the property ?

2. Learned counsel for respondent no. 1 waives notice.
3. In addition to court notice, learned advocate for the appellant to serve the remaining respondents (except deceased respondent no. 3) by private service and file service affidavit before the next date.

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4. Issue notice to respondent nos. 3A to 3E returnable on 1<sup>st</sup> July 2026.
5. In addition to court notice, learned advocate for the appellant to serve the respondents nos. 3A to 3E by private service and file service affidavit before the next date.

6. Learned advocate for the appellant to ensure that copies are supplied and court notice is served by taking hamdast.

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7. Learned advocate for the appellant is granted leave to carry out amendment for showing heirs of respondent no. 3. Amendment to be carried out within three weeks.

8. After amendment is carried out, office shall issue notice to the added respondents i.e. heirs of respondent no.3.

**[GAURI GODSE, J.]**