



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 SECOND APPEAL NO. 228 OF 2025

BHANUDAS PANDURANG HASE
VERSUS
PANDHARINATH PANDURANG HASE AND ORS

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Advocate for Appellant : Mr. Bhide Vinod Yashwantrao.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 19.06.2025

PER COURT :-

1. Heard learned counsel Mr. Bhide for the appellant.
2. Appellant is the original plaintiff who has filed suit for partition, possession and injunction vide Regular Civil Suit No.147 of 2002. It was decreed on 25.02.2009 by common judgment allotting 1/5th share in two of the agricultural lands out of three. Being aggrieved, he preferred R.C.A. No.54 of 2009.
3. Simultaneously R.C.S.No.134 of 2002 which was filed for perpetual injunction by respondent No.2/Tarabai was decreed by the Trial Court. Against that, appellant preferred independent R.C.A. No.53 of 2009. His appeal was allowed.

Therefore, he has not preferred any second appeal from the same.

4. Present second appeal pertains to the reduction of his share from $1/5^{\text{th}}$ to $1/25^{\text{th}}$ in all three agricultural lands.

5. Learned counsel for the appellant submits that in absence of any appeal or cross objection against decree of partition granting $1/5^{\text{th}}$ share to the appellant it was not permissible for the Lower Appellate Court to reduce his share. It is further contended that the calculations of the share by the Lower Appellate Court is against Section 6 and 8 of the Hindu Succession Act.

6. After hearing the appellant, I find that following substantial questions of law are involved in the appeal :

- (i) Whether calculation of the share of the appellant by Lower Appellate Court by reducing it to $1/5^{\text{th}}$ to $1/25^{\text{th}}$ is in accordance with law ?
- (ii) Whether the devolution of the interest would be as per Section 8 of Hindu Succession Act and in that case, whether deceased Pandurang, father of the appellant can be allotted any share ?

7. **Admit.**

8. Call for Record and Proceedings from the concerned Court.

(SHAILESH P. BRAHME, J.)

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vmk/-