

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

963 SECOND APPEAL NO. 276 OF 2025

PANDHARINATH PANDURANG HASE AND ORS  
VERSUS  
BHANUDAS PANDURANG HASE AND ORS

...

WITH  
SECOND APPEAL NO. 277 OF 2025

.....

Advocate for the Appellants : Mr.Shivaji T. Shelke

...

**CORAM : SHAILESH P. BRAHME, J.**  
**DATE : 31<sup>st</sup> JULY 2025**

**PER COURT :**

1. Heard learned counsel Mr.Shelke for the appellants.
2. Second appeal No.276 of 2025 is arising out of R.C.S No. 147 of 2002 filed by the Respondent No.1/Bhanudas for partition and separate possession. It was decreed by the trial court
3. Whereas Second Appeal No.277 of 2025 is arising out of R.C.S No. 134 of 2002 filed by the appellant/Tarabai for injunction which was also decreed by the trial court.
4. Being aggrieved Respondent No.1/Bhanudas preferred R.C.A No. 54 of 2009 and Tarabai preferred R.C.A No.53 of 2009. Both the appeals were decided by common judgment and decree dated 12.02.2025 giving rise to present second appeal.

5. It is contended by learned counsel Mr.Shelke that there is absolutely no evidence on factum of marriage of Pandurang with Manjulabai. PW-2/Yashodabai whose evidence is adduced by Respondent No.1/Bhanudas in support of his claim was unable to narrate material particulars and exact date of marriage. In the absence of any material on record it has to be inferred that either there was no marriage or biological mother Manjulabai was concubine. If this is the situation then that disqualifies the Respondent No.1/Bhanudas to claim any share in the property of Pandurang by implication of Section 16 (3) read with Sections 11 and 12 of Hindu Marriage Act.

6. Following substantial questions of law are involved in the Second Appeal No. 276 of 2025 :

A) Whether decree of partition allotting share to the plaintiff/Bhanudas is sustainable in wake of implication of Section 16 (3)read with Sections 11 and 12 of The Hindu Marriage Act,1955 and when factum of marriage between Pandurang and Manjulabai has not been established at all?

B) Whether the law laid down by the Supreme Court in the matter of **Revanasiddappa and Ors. Vs. Mallikarjun and Ors.** reported in 2011 (11) SCC 1 would enure to the benefit of Respondent/Bhanudas?

C) Whether both the courts below are justified in ignoring the alienations made by the members of the family when there was no

challenge to those alienations and decreeing the suit for partition would cause prejudice to the third parties?

7. Following substantial questions of law are involved in the Second Appeal No. 277 of 2025 :

A) Whether decree of partition allotting share to the plaintiff/Bhanudas is sustainable in wake of implication of Section 16 (3) read with Sections 11 and 12 of The Hindu Marriage Act, 1955 and when factum of marriage between Pandurang and Manjulabai has not been established at all?

B) Whether the law laid down by the Supreme Court in the matter of **Revanasiddappa and Ors. Vs. Mallikarjun and Ors.** reported in 2011 (11) SCC 1 would enure to the benefit of Respondent/Bhanudas?

C) Whether lower appellate court is justified in denying the relief of injunction on the principle that no injunction can be granted against co-owner when evidence on record does not disclose any right, title or interest of Respondent No.1/Bhanudas?

8. Admit.

9. Call for record and proceedings.

[ SHAILESH P BRAHME, J.]

vsj..