

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.383 OF 2024
WITH
INTERIM APPLICATION NO.7610 OF 2025
IN
SECOND APPEAL NO.383 OF 2024**

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VAIBHAV RAMESH
JADHAV
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Shantabai Prakash Shelke & Anr. ... Appellants
V/s.
Chhaya Pandurang Dubbanmardi & Ors. ... Respondents

Mr. R. S. Apte, Senior Advocate i/by R. S. Alange for
the appellants.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : OCTOBER 8, 2025

P.C.:

1. Heard Mr. R. S. Apte, learned Senior Advocate appearing for appellants.
2. The appellants are original defendant Nos. 1 and 2. Respondent Nos. 1 to 3 filed a suit for partition and separate possession before Civil Judge, Senior Division, Solapur. Trial Court partly decreed suit to the extent of agricultural lands; however, refused to grant a decree in respect of other properties as share in those properties was relinquished by Muktabai and Dilip in favour

of defendant No. 1 vide relinquishment deeds placed at Exhibits 75 and 77 on the record of the Trial Court.

3. The Appellate Court modified decree and declared that plaintiffs and defendant No. 1 each have 1/5th share in house properties as described in paragraphs 1(a) and 1(b) of plaint.

4. Learned Senior Advocate appearing for appellants invites the attention of this Court to contents of documents at Exhibits 75 and 77, which clearly stipulates that relinquishment of share was in favour of defendant No. 1 and not in favour of joint family as such.

5. In light of aforesaid facts, learned Senior Advocate pressed into service following substantial questions of law:

“(F) That the substantial question of law that arises for consideration in the present Appeal is after relinquishment of share of Muktabai and Dilip, their 1/3rd share in suit property No.1A and 1B in favour of Defendant No.1, the same is nothing but separate or self acquired property of Defendant No.1, and therefore succession will open after demise of Defendant No.1.

(G) That the substantial question of law that arises for consideration in the present Appeal is the suit property at Sr. No.1A and 1B were acquired by the Defendant No.1 by virtue of relinquishment Deed at Exhibits 75 & 77 and therefore they were absolute properties of Defendant No.1.”

6. In light of aforesaid proposed substantial questions of law, issue notice to respondents, returnable on **24th November 2025**.

7. In addition to Court notice, appellants shall be at liberty to serve respondents by any other alternate mode, as permissible under law, and file an affidavit of service by returnable date.

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8. Heard learned Senior Advocate appearing for applicants.

9. This Court has issued notice to respondents on proposed substantial questions of law in second appeal.

10. In that view of the matter, there shall be ad-interim relief in terms of prayer clause (b), till returnable date.

11. Stand over to **24th November 2025**.

(S. G. CHAPALGAONKAR, J.)