

VRJ

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

SECOND APPEAL (ST.) NO.29874 OF 2025  
WITH  
INTERIM APPLICATION (ST.) NO.29875 OF 2025  
IN  
SECOND APPEAL (ST.) NO.29874 OF 2025

Pandurang Dnyanu Shinde ... Appellant  
V/s.  
Indubai Kakaso Dabade & Ors. ... Respondents

Mr. Bhushan Walimbe with Mr. Mayank Tripathi for the  
appellant.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : OCTOBER 16, 2025

P.C.:

**SECOND APPEAL (ST.) NO.29874 OF 2025**

1. Heard learned advocate appearing for appellant.
2. The appellant is original Defendant No.5 in Regular Civil Suit No.318 of 1990. Suit was filed for partition and separate possession of suit properties. Trial Court dismissed suit; however, Appellate Court partly allowed it, holding that plaintiffs as well as defendants Ankush, Dattatray, and Savita have 1/6th share each in

the suit property bearing Block No.1580, situated at Village Mhasurne, Taluka Khatav, District Satara. Similarly, it was declared that sale deed executed by Ankush in favour of Defendant No.5 is invalid with respect to an area of 1.50R

3. Learned Advocate appearing for appellant, after taking this Court through the compromise decree passed in Regular Civil Suit No.318 of 1990, as well as the terms of settlement appended thereto, submits that Gat No.1580 is divided into two parts and vendor of appellants was granted 50% share.

4. In that view of the matter, order passed by Appellate Court, thereby declaring sale deed dated 24th February 2014 as invalid to the extent of 1.50R of land, and further injunction granted against defendant No.5, is illegal. He would therefore press into service following substantial questions of law:

“(f) Whether the Lower Appellate Court erred in law by treating the suit property as joint family property despite a clear partition deed and compromise decree of 2002 which had been acted upon and never challenged?

(h) Whether the Lower Appellate Court failed to draw adverse inference against Defendant No.1, who being the executant of the sale deed, avoided entering the witness box, thereby withholding the best evidence under Section 114(g) of the Indian Evidence Act?

(t) Whether the Ld. District Court was justified in law in

holding that Ankush has received the suit in partition held in 2002, as karta when on that date, it was Kakaso i.e. father of the Ankush was Karta of the family?”

5. In light of proposed substantial questions of law, issue notice to respondents, returnable on **3<sup>rd</sup> December 2025**.

**INTERIM APPLICATION (ST.) NO.29875 OF 2025**

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

7. In that view of the matter, issue notice to respondents, returnable on **3<sup>rd</sup> December 2025**.

8. Till returnable date, there shall be ad-interim relief in terms of prayer clause (a).

**(S. G. CHAPALGAONKAR, J.)**