



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 3 OF 2025

SMT SHANTBAI SHRIRAM RATHOD AND ORS

VERSUS

SHRI JOSHI GANA RATHOD AND ORS

...
Advocate for Appellants : Mr. Mukhedkar Amit Arunkumar
Advocate for Respondent Nos. 1, 27 and 8 : Mr. U.S.Mote
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 8th JULY 2025

PER COURT :

1. Heard. Learned Counsel Mr. Mukhedkar for the Appellants and learned Counsel Mr. Mote for Respondent Nos. 1, 27 and 8.
2. Appellants – original Plaintiffs are challenging judgment and decree passed by Lower Appellate Court. They are non-suited by the trial Court and their appeal is partly allowed.
3. Learned Counsel for the Appellants submits that Appellants are claiming 1/3rd share per strip being heirs of deceased – Shriram. However they are granted 1/6th share in land gut no. 264 only. It is further submitted that without assigning any reason, the shares in other suit properties have not been granted.
4. Following substantial questions of law involved in the Second Appeal :

(i) Whether the Lower Appellate Court has exercised jurisdiction under Section 96 of the Civil Procedure Code as contemplated by Santosh Hazari vs Purushottam Tiwari (Dead) by Lrs., as all aspects of the matter have not been dealt with?

(ii) Whether the impugned judgment and decree denying any share to the Appellants in the suit properties namely gut no.266, 267, 27, 35, 36 and house property nos. 35 and 36 is sustainable for want of specific reason?

(iii) Whether the Appellants are entitled to 1/3rd share as claimed by them?

5. Admit.

6. Learned Counsel Mr. Mote waives service of notice for Respondent Nos. 1, 27 and 8.

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

**SHAILESH P BRAHME
JUDGE**

NAJEEB..